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November 18, 2009

Gregory P. Webb
Haynes and Boone, LLP
IP Section
2323 Victory Avenue, Suite 700
Dallas, TX 75219

Patent No.: 7,544,194 B2
Application No.: 11/109,180
Inventor (s): Michael Mrochen, et al.
Issued: June 9, 2009
Title: **METHOD OF GENERATING A CONTROL PROGRAM FOR A DEVICE FOR PHOTOREFRACTIVE CORNEAL SURGERY OF THE EYE**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

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GEORGE YAHWAK ESQ.
555 LONG WHARF DRIVE, 9TH FLOOR
NEW HAVEN CT 06511

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Corvalan et al.	:	
Application No. 11/109,181	:	DECISION DISMISSING PETITION
Filed: 18 April, 2005	:	
Atty Docket No. Cura 961 CON	:	

This is a decision in reference to the petition filed on 18 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 18 April, 2005, with Figures 48-57 described in the specification as a part of the original disclosure.

The petition is dismissed.

On 18 April, 2005, the application was filed.

On 6 June, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures stating that the application had been accorded a filing date of 18 April, 2005, but that, *inter alia*, Figures 48-57 described in the specification appeared to have been omitted from the application.

In response, on 18 July, 2005, the present petition was filed. Petitioners concede that Figures 48-57 were inadvertently omitted from the application, but state that the omitted Figures are contained in Application No. 10/041,860, of which the present application is a continuation. Additionally, the first line of the specification submitted with the original application papers on 18 April, 2005, states that "[t]his application claims priority to" Application No. 10/041,860, "which is incorporated by reference in its entirety."

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 drawing figures were deposited on 18 April, 2005, nor request the 18 July, 2005 (the date the drawings were supplied), filing date.

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), <u>without the need for a petition</u>. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 48-57 described in the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Figures 48-57 as a preliminary amendment. If Figures 48-57 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 Figures 48-57 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 18 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

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DIW May-07

ALAN P. HALBERT
2956 WEST 15000 SOUTH
BLUFFDALE UT 84065

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OFFICE OF PETITIONS

In re Application of	:	
Alan P. Halbert	:	DECISION ON PETITION
Application No. 11/109183	:	
Filed: 04/18/2005	:	
Atty Docket No. AH5	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 3 February, 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 decision.

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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)).

This application became abandoned on 10 May, 2006, for failure to file a timely reply to the final Office action mailed on 9 February, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 28 August, 2006.

The petition lacks the required reply. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on 3 February, 2007, does not place the case in *prima facie* condition for allowance.

A copy of the examiner's Advisory Action is enclosed for petitioner's reference.

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief

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APR 07 2008

ALAN P. HALBERT
2956 WEST 15000 SOUTH
BLUFFDALE UT 84065

In re Application of	:	
Alan P. Halbert	:	DECISION ON PETITION
Application No. 11/109183	:	
Filed: 04/18/2005	:	
Atty Docket No. AH5	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on March 7, 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 decision.

This application became abandoned on May 10, 2006, for failure to file a timely reply to the final Office action mailed on February 9, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in

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

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

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

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

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

accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on August 28, 2006.

On February 3, 2007, a petition under 37 CFR 1.137(b) was filed, accompanied by an amendment after final rejection as the required reply. On May 4, 2007, however, the petition was dismissed because the amendment filed to place the application in *prima facie* condition for allowance. The decision dismissing the petition mailed on May 4, 2007, stated that "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." (emphasis in original) Accordingly, a renewed petition in response to the decision dismissing the petition was due, with the appropriate extensions of time, not later than December 4, 2007.

On March 7, 2008, the present petition under 37 CFR 1.137(b) was filed, accompanied by a Request for Continued Examination (RCE).

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

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

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

The question under 37 CFR 1.137(b) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

In this respect, There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:

(A) the delay in reply that originally resulted in the abandonment;
(B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and
(C) the delay in filing a **grantable** petition pursuant to 37 CFR 1.137 to revive the application.

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be

accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (E. D. Mich. 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

Accordingly, petitioner must explain why there was nine (9) month delay between the mailing of the decision dismissing the petition mailed on June 4, 2007, and the filing of the present petition on March 7, 2008 (certificate of mailing date March 4, 2008). Petitioner was advised in the decision mailed on June 4, 2007, that a two (2) month period extendable period had been set for requesting reconsideration. This extended period of delay raises a question as to whether the entire period of delay was, in fact, unintentional. As such, petitioner must explain why the entire period of delay should be considered by the Office to be unintentional.

Petitioner should explain why the application became abandoned while it was under his control and what efforts petitioner made to file a timely renewed petition and with whom this matter was discussed outside of the attorneys of record, the inventor, and any assignee(s). Copies of any correspondence relating to the filing, or to not filing a further reply to the dismissal of the initial petition are required from responsible person(s), the attorneys of record, the inventor, any assignee(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then involved in the prosecution of the application, including the attorneys of record, the inventor, any assignee(s), and the

responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office requirement. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (E.D. Mich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

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

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

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

As such, the petition under 37 CFR 1.137(b) is **DISMISSED**.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. 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.

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

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P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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Office of Petitions

DWood

Cc:

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OFFICE OF PETITIONS

In re Application of :
David P. Wilson et al. :
Application No. 11/109,189 : ON PETITION
Filed: April 18, 2005 :
Attorney Docket No. H0007522-4510 CIP :

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

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

This application became abandoned March 18, 2009 for failure to timely pay the issue fee on or before March 17, 2009. Accordingly, a Notice of Abandonment was mailed August 7, 2009.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation 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.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

EDWARD L. BRANT
FOX ROTHSCHILD LLP
2000 MARKET STREET, 10TH FLOOR
PHILADELPHIA, PA 19103-3291

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: David P. Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7605117	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,190	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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JUL 08 2008

OFFICE OF PETITIONS

In re Application of	:	
CHRISTENSEN, Eric J.	:	
Application No. 11/109,209	:	DECISION ON PETITION
Filed: April 18, 2005	:	TO WITHDRAW
Attorney Docket No. **24618-09891**	:	FROM RECORD
	:	

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 Rajiv P. Patel on behalf of all attorneys of record who are associated with customer No. 00758. 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 February 26, 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: **ERIC J. CHRISTENSEN**
55 WINSHIP AVENUE
P.O. BOX 678
ROSS, CA 94957-0678

cc: **MAURICE PIRIO**
PERKINS & COIE
1201 THIRD AVENUE, #4800
SEATTLE, WA 98101

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OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of	:	
Eric J. CHRISTENSEN	:	
Application No. 11/109,209	:	DECISION ON PETITION
Filed: April 18, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2009, to revive the above-identified application.

The petition is **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 March 12, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 12, 2008. Accordingly, the date of abandonment of this application is March 13, 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).

Although the payment of Issue and Publication fees has been received, the application remains abandoned as the Office has not received a reply to the Notice to File Corrected Application Papers mailed on January 22, 2009.

The power of attorney submitted with the petition has been accepted and made of record.

The duplicate payment of $1510 submitted on May 13, 2009, through electronic fee Transmittal is unnecessary and will be credited to petition's deposit account.

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.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Eric J. CHRISTENSEN
Application No. 11/109,209
Filed: April 18, 2005
Attorney Docket No. **418268526US**

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 11, 2009, 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 March 12, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 12, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the corrected formal drawings, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely file corrected drawings as required by the Notice To File Corrected Papers is accepted as being unintentionally delayed.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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MICHAEL L. GOLDMAN
NIXON PEABODY LLP
1100 CLINTON SQUARE
ROCHESTER NY 14604

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application :
Mark R. Philips et al. :
Application No. 11/109,262 : DECISION ON APPLICATION
Filed: April 19, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 57953/1252 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed May 5, 2010. Applicant requests that the determination of patent term adjustment be corrected from 0 to 636 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

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 patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

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

Anthony Knight
Director
Office of Petitions

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

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LATTICE SEMICONDUCTOR CORPORATION
5555 NE MOORE COURT
HILLSBORO, OR 97124-6421

Mail Date: 04/20/2010

Applicant	: Frederic Deboes	: DECISION ON REQUEST FOR
Patent Number	: 7630464	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1194** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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MAR 3 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,079,331	:	
Issue Date: July 18, 2006	:	
Application No. 11/109,316	:	ON PETITION
Filed: April 19, 2005	:	
Attorney Docket No. 1210/94170	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on January 28, 2010 and the Supplemental petitions filed February 10, 2010 and February 17, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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SANDY, UT 84070

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OFFICE OF PETITIONS

In re Application of	:	
Roland J. Christensen	:	
Application No. 11/109,320	:	DECISION ON PETITION
Filed: April 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 21145.CIPB	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR § 1.102(d), filed March 30, 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 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 3738 for action on the merits commensurate with decision.

David Bucc for
Petitions Examiner
Office of Petitions

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CHRISTOPHER B. JACOBS – CASE
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND OH 44115

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OFFICE OF PETITIONS

In re Application of	:	
Dominique M. Durand et al	:	
Application No. 11/109,338	:	DECISION ON PETITION
Filed: April 19, 2005	:	
Attorney Docket No. CASEP0101USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE/amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed November 26, 2007, is accepted as having been unintentionally delayed.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the reply received September 5, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

JOHN T. KALNAY
4700 ROCKSIDE RD. SUITE 510
INDEPENDENCE, OHIO 44131

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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OFFICE OF PETITIONS

In re Application of
Kenneth John Hamilton
Application No. 11/109,342
Filed: April 19, 2005
Attorney Docket No. HAMK-27,131

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 24, 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 December 25, 2008. The Notice of Abandonment was mailed April 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, 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 3624 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
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DUNCAN OK 73536-0440

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth W. OYLER et al.	:	
Application No. 11/109,354	:	DECISION ON PETITION
Filed: April 19, 2005	:	
Attorney Docket No. **HES 2004-IP-014967U1**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 24, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 25, 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. Accordingly, the reply to the final Office Action of March 24, 2009 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

This application is being referred to Technology Center AU 3676 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **MELODY WIRZ**
BAKER BOTTS L.L.P.
910 LOIISIANA STREET
HOUSTON TX 77002-4995

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UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Martin J. Rotter	:	DECISION ON PETITION TO
Application Number: 11/109380	:	WITHDRAW HOLDING OF
Filing Date: 04/19/2005	:	ABANDONMENT
Attorney Docket Number: ROT-PT053.1	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on 11 September, 2007, which, in view of petitioner's statement that a response was timely filed, is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 9 August, 2007, stating that the application was abandoned for failure to file a reply to the non-final Office action mailed on 17 January, 2007.

Petitioner asserts that a timely reply to the non-final Office action was filed on 17 April, 2007. In support, petitioner has provided, *inter alia*, a copy of the electronic Acknowledgement Receipt showing the filing of a submission on 17 April, 2007.

A review of the record reveals that the amendment was filed on 17 April, 2007, in response to the Office action mailed on 17 January, 2007. As such, the showing of record is that a timely response to the Office action mailed on 17 January, 2007, was filed.

As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The petition fee will be refunded to petitioner.

The application is referred to Technology Center Art Unit 3635 for further processing.

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Eric Bryan Bond	: DECISION ON REQUEST FOR
Patent Number	: 7576019	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,393	: OF WYETH
Filed	: 04/19/2005	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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Frishauf, Holtz, Goodman & Chick, P.C.
220 Fifth Ave., 16th Floor
New York, NY 10001-7708

Date: November 10/15/06
Application No. 11/109,396
Filed: April 19, 2005
Subject: **Novel Process for the synthesis of 5-(4-fluorophenyl)1-1 -[2-((2R,4R)-4-hydroxy-6-oxo-tetrahydro-pyran-2-yl)-ethyl]-2-isopropyl-4-phenyl-1H-pyrrole-3-carboxylic acid phenyl amide**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed September15, 2006 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Donald Eugene Butler, Randall Lee Dejong and Michael Gerard Pamment.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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GREENBELT MD 20771

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APR 18 2008

In re Application of	:	
Steven A. Curtis	:	
Application No. 11/109,400	:	ON PETITION
Filed: April 8, 2005	:	
Attorney Docket No.: **GSC 14,657-1**	:	

This is a decision on the petition filed March 28, 2008 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 January 9, 2007. 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 April 10, 2007. Accordingly, a Notice of Abandonment was mailed August 10, 2007.

This matter is being referred to Technology Center 2121 for appropriate action on the amendment filed March 28, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

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

Mail Date: 04/21/2010

Applicant	: Robert Leslie Oglesby	: DECISION ON REQUEST FOR
Patent Number	: 7600518	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,404	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: 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.

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OFFICE OF PETITIONS

ORUM & ROTH
53 WEST JACKSON BLVD.
CHICAGO, IL 60604

In re Application of
Hector Delgado Morales
Application No. 11/109,427
Filed: April 19, 2005
Attorney Docket No. 14132

ON PETITION

This is a decision in response to the petition, filed August 7, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 26, 2007. A Notice of Abandonment was mailed on May 21, 2008. In response, on August 7, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The terminal disclaimer filed August 7, 2008 is **not** accepted. 37 CFR 1.137(d) requires that any petition to revive in either a utility or plant application filed before June 8, 1995, be accompanied by a terminal disclaimer and fee as set forth in §1.321. Since this application is filed *after* June 8,1995, no terminal disclaimer and fee are required. Accordingly, the $65 fee is being refunded to counsel's deposit account, as authorized.

The application is being referred to Technology Center AU 1792 for consideration of the amendment filed August 7, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MICHAEL F. SCALISE
WILSON GREATBATCH TECHNOLOGIES, INC.
9645 WEHRLE DRIVE
CLARENCE NY 14031

In re Application of	:	
Muffoletto, et al.	:	
Application No. 11/109,441	:	DECISION ON PETITION
Filed: 19 April, 2005	:	
Attorney Docket No.: 37505.0395	:	

This is a decision on the petition filed on 18 July, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 19 April, 2005, absent, *inter alia*, a fully executed oath/declaration;
- on 18 May, 2005, the Office mailed a Notice of Missing Parts;
- on 18 July, 2005, Petitioner Michael F. Scalise (Reg. No. 34,920) replied with an oath/declaration signed by co-inventors Muffoletto, Gloss, Eberhard, Spaulding, Liu, Nesselbeck, Stemen and Stringham (on behalf of themselves and), but without the signature of non-signing inventor Louis Marrinaccio (Mr. Marinaccio), and with a statement by Petitioner as to the process of sending the entire application (description,

claims, abstract and drawings) for review, with the oath/declaration for signature, and supported said statement with a copy of the transmittal letter.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

In re Patent No. 7,499,501	:	
Chung, et al.	:	DECISION DISMISSING
Application No. 11/109,464	:	REQUEST FOR
Issue Date: March 3, 2009	:	RECONSIDERATION OF
Filed: April 18, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
32052-9177.US01	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 CFR § 1.705(B), filed May 4, 2009, which is properly treated pursuant to 37 CFR § 1.705(d). Patentees request that the determination of patent term adjustment be corrected from five-hundred thirty-eight (538) days to eight hundred fifty-seven (857) 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 538 days.

BACKGROUND

This application was filed on April 18, 2005. On March 3, 2009, the application matured into U.S. Patent No. 7,499,501, with a revised patent term adjustment of 538 days. The Office determined that the 319 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 538

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

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

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 538 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 3 days, the patent issued with a revised patent term adjustment of 538 (541 - 3) days.

On May 4, 2009, patentees timely submitted this request for reconsideration of patent term adjustment asserting that the correct number of days of Patent Term Adjustment is 857 days. Specifically, patentees state that:

> The correct patent term adjustment is 857 days. The PTO's calculated patent term adjustment is 538 days. Applicant is entitled to an additional 319 days of patent term adjustment.
>
> The PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 541 days.
>
> The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B) referred to as the "B delay." The B delay is 319 days.

---

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 319 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 December 11, 2007, fourteen months and 541 days after the application filing date, April 18, 2005.

> The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(1)(A)in the A delay and the B delay. The overlap is 0 days…
>
> The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is 541 + 319 - 0 - 3, which is 857 days.

Excerpt taken from "Application for Patent Term Adjustment Reconsideration under 37 C.F.R. § 1.705(B)", filed May 4, 2009, p. 2.

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:

---

[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.

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap"

under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), April 18, 2005, and ending on the date the patent issued, March 3, 2009,(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 541 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), 319 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 319 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 541 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 541 days and the 319 days is neither permitted nor warranted. 541 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 538 days (541 days of Office delay - 3 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

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PHOENIX, AZ 85082

Mail Date: 04/20/2010

Applicant	: Tod F. Schiff	: DECISION ON REQUEST FOR
Patent Number	: 7595617	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **866** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Gregory R. Mundy	:	
Application No. 11/109,470	:	DECISION ON PETITION
Filed: April 18, 2005	:	TO WITHDRAW
Attorney Docket No. XENO-001CON	:	FROM RECORD
	:	

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 31, 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.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Michael Fuller
Knobbe Martens Olsen & Bear LLP
550 West C Street
Suite 1200
San Diego, CA 92101

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3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of :
Todd R. Witkowski, et al. :
Application No. 11/109,475 : ON APPLICATION FOR
Filed: April 19, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 026032-4879(NO.696):

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed November 2, 2009, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is four hundred and sixty-nine (469) days, not four hundred and twenty-three (423) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on June 4, 2008.

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

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

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

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

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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REHRIG PACIFIC
4010 E. 26TH STREET
LOS ANGELES, CA 90058

Mail Date: 04/21/2010

Applicant	: Jon P. Hassell	: DECISION ON REQUEST FOR
Patent Number	: 7581641	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,485	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **630** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VAN PELT, YI & JAMES LLP AND ADOBE SYS. INCORP.
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

Mail Date: 04/21/2010

Applicant	: Michael D. Schuster	: DECISION ON REQUEST FOR
Patent Number	: 7652668	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,507	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **482** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

John S. Reid
1926 S. Valleyview Lane
Spokane WA 99212-0157

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Hillberry et al.	:	DECISION ON
Application No. 11/109,517	:	PETITION
Filed: April 19, 2005	:	
Atty Docket No. M004-P04	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed February 2, 2009.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a reply to the final Office action mailed August 24, 2007. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A reply was filed on October 5, 2007; however, it was determined not to place the application in condition for allowance (See Advisory Action mailed October 30, 2007). No further reply filed and no extension of time obtained, the application became abandoned effective November 25, 2007. A courtesy Notice of Abandonment was mailed on May 1, 2008.

On petition, petitioner submitted a Request for Continued Examination (RCE)(and RCE fee) and submission under §1.114 (in the form of an amendment); made the required statement of unintentional delay; and paid the petition fee. No terminal disclaimer is required for revival of this application.

The instant application has been abandoned for an extended period of time. The Office is relying on petitioner's duty of good faith and candor in accepting the assertion that the entire

delay in filing the required reply was unintentional. See 37 CFR 10.18.

All requirements of 37 CFR 1.137(b) have been met.

Technology Center AU 3612 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed February 2, 2009.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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APR 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronald M. JONES, et al	:	
Application No. 11/109,526	:	DECISION ON PETITION
Filed: April 18, 2005	:	TO WITHDRAW
Attorney Docket No. 52325-8015.US01	:	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 February 26, 2008.

The request is **APPROVED**.

A review of the file record indicates that Susan J. Myers Fitch: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Susan J. Myers Fitch has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor 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 inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RONALD M. JONES
13175 FRANKLIN AVENUE
MOUNTAIN VIEW, CA 94040

WILSON SONSINI GOODRICH
& ROSATI
C/O MAYA SKUBUTCH
650 PAGE MILL ROAD
PALO ALTO, CA 94304

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/109,526	04/18/2005	Ronald M. Jones	52325-8015.US01

CONFIRMATION NO. 1205

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

OC000000029210545

Date Mailed: 04/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2008.

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

/dcgoodwyn/

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

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Inverness Medical Innovations / WSGR
Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, CA 94304

Mail Date: 04/21/2010

Applicant	: Ronald M. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7582484	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,526	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1039** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of Ulrich Monkmeyer Application No. 11/109,530 Filed: April 19, 2005 Attorney Docket No. HAMMONS 3.9-006 CONT	DECISION GRANTING PETITION AND WITHDRAWING THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 13, 2007.

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 an Appeal Brief after a Notice of Appeal. Applicant filed a Notice of Appeal on December 18, 2006. Accordingly, Applicant had a two month extendable period to file an Appeal Brief. The Office mailed a Notice of Abandonment on July 19, 2007.

A review of the application file reveals the presence of an RCE, filed July 23, 2007. The RCE was made timely by obtaining a five month extension of time, and by including a Certificate of Mailing dated July 18, 2007.

In view of the above, the holding of abandonment is withdrawn.

The matter is being forwarded to Group Art Unit 3732 for consideration of the RCE filed July 23, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JONES DAY
222 East 41st Street
New York, NY 10017-6702

MAILED

MAY 19 2010

OFFICE OF PETITIONS

In re Application of
Greg A. Blodgett, et al.
Application No. 11/109,531
Filed: April 19, 2005
Attorney Docket No. P215651.US.01

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 16, 2010.

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

A review of the file record indicates that the power of attorney to Jones Day has been revoked by the assignee of the patent application on April 2, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **DORSEY & WHITNEY LLP**
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
Seattle, WA 98104-7043

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TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Volker Mauer	: DECISION ON REQUEST FOR
Patent Number	: 7586995	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,536	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1155** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

Mail Date: 04/21/2010

Applicant	: Stephen P. Straka	: DECISION ON REQUEST FOR
Patent Number	: 7648747	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/30/2010

Applicant	: Richard Fogoros	: DECISION ON REQUEST FOR
Patent Number	: 7613514	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/109,603	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **633** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of	:	
Tarun J. **EDWIN**	:	
Application No. 11/109,604	:	DECISION ON PETITION TO
Filed: April 19, 2005	:	WITHDRAW FROM RECORD
Attorney Docket No. **1016750025P4**	:	

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 22, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on June 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: **C.R. BARD, INC.**
BARD PERIPHERAL VASCULAR
1625 W. 3RD STREET
P.O. BOX 1740
TEMPE, AZ 85280-1740

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

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In re Application of	:	
Sasaki	:	
Application No. 11/109,619	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 123574	:	

This is a decision on the petition, filed December 1, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before November 12, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed August 11, 2008.

Petitioner asserts that the Notice dated August 11, 2008 was not received.

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

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

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

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the holding of abandonment is withdrawn.

This application is being referred to the Technology Center AU 2834 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of August 11, 2008. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Collard & Roe, P.C./Leviton
1077 Northern Blvd
Roslyn, NY 11576

Mail Date: 04/27/2010

Applicant	: Nicholas L. DiSalvo	: DECISION ON REQUEST FOR
Patent Number	: 7639461	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/109,628	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Morgan & Finnegan
345 Park Avbenue
New York NY 10154-0053

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OCT 0 4 2005
OFFICE OF PETITIONS

In re Application of: :
Matsumoto :
Application No. 11/109,641 : ON PETITION
Filed: December 5, 2001 :

This application is before this office in view of (1) a communication filed October 4, 2004, captioned for application No. 10/010,000 and styled as a petition for reconstruction of an unlocatable file under 37 CFR 1.181, and (2) correspondence filed February 20, 2002, also captioned for application No. 10/010,000 and captioned as a claim for foreign priority, along with a certified copy of Japanese application no. 2000-371,999 filed December 6, 2000.

The petition is dismissed as moot.

Since the petition was filed, the USPTO has rectified its own administrative errors in this matter and has created the above-captioned file as the correct application number for the Matsumoto application, as indicated in the "Notice of Corrected Application Number" mailed April 21, 2005. This notice also indicates that all correspondence for the Matsumoto application is to refer to the above-noted application no. Accordingly, the file is no longer "unlocatable" and as such does not require reconstruction. The USPTO regrets the error and inconvenience.

This decision also acknowledges USPTO receipt of the above-captioned priority document, not previously matched with the other Matsumoto application papers. In due course a copy of the document will be made and entered in the above-captioned IFW file.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

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P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Akinobu Yoshimura :
Application No.: 11/109,645 :
Filed: April 20, 2005 :
Attorney Docket No.: 123554 :

This is a decision on the petition, filed July 2, 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 June 13, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2624 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Lynda McKay :
Application No. 11/109,649 : ON PETITION
Filed: April 20, 2005 :
Attorney Docket No. 90767-4099 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed September 21, 2007, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 22, 2007.

The power of attorney filed with the petition on June 17, 2008 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

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

This matter is being referred to Technology Center AU 2854 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Gottlieb, Rackman & Reisman PC
270 Madison Avenue, 8th Floor
New York, NY 10016-0601

Attachment: blank 37 CFR 3.73(b)

PTO/SB/96 (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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest (The extent (by percentage) of its ownership interest is _____ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

   The document was recorded in the United States Patent and Trademark Office at

   Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

   The document was recorded in the United States Patent and Trademark Office at

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3. From: _____ To: _____

   The document was recorded in the United States Patent and Trademark Office at

   Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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ALEXANDRIA, VA 22304

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OFFICE OF PETITIONS

In re Application of	:	
Anthony A. Anthony	:	
Application No. 11/109,665	:	DECISION GRANTING PETITION
Filed: April 20, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. X2YA0108U-US-C3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 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 20, 2005, requiring the submission of replacement drawings in compliance with 37 CFR 1.84 and 1.121. 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 21, 2005. A Notice of Abandonment was mailed on January 31, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the proposed reply (replacement drawings), (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 20, 2005 is accepted as having been unintentionally delayed.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Seong-Jin An	: DECISION ON REQUEST FOR
Patent Number	: 7601459	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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In re Application of
Gerald Todd Christensen
Application No. 11/109,776
Filed: April 20, 2005
Attorney Docket No. 12834/100201

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 11, 2009.

The request is **NOT APPROVED**.

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

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

Further, the Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for*

Customer Number Data Change (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

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

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

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

cc: WIB CHESSER
ARENT FOX, LLP
1050 CONNECTICUT AVENUE, NW
SUITE 400
WASHINGTON, DC 20036-5339

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2-28-07

gm

In re application of	:	
E. Craig Jowett	:	DECISION
Serial No. 11/109,820	:	GRANTING
Filed: April 20, 2005	:	PETITION
For: Wastewater Treatment Station in a	:	
Shipping Container	:	

This is a decision on the PETITION FROM FINAL DECISION OF EXAMINER REQUIRING RESTRICTION, filed on January 9, 2007.

On February 15, 2006, an election of species requirement was made by the examiner between a number of species. Applicant traversed the requirement on March 2, 2006 while electing the species of Figures 12-14. In so doing, applicant indicated that they believed claim 29 read on the elected species. In the Office action of May 2, 2006, the examiner made the requirement final and indicated that claim 29 was withdrawn from consideration as not reading on the elected species. Applicant traversed this holding in the response of July 31, 2006. The examiner continued to maintain that claim 29 was non-elected in the final rejection of November 8, 2006, whereupon the instant petition under 37 CFR 1.144 was filed to formally request examination of claim 29 on January 9, 2007.

The petition requests that claim 29 be examined on the merits as an elected claim.

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

DECISION

The examiner issued an election of species and applicant duly elected the species of Figures 12-14. Applicant has not petitioned the appropriateness of the election of species *per se* but rather only contests the examiner's refusal to examine claim 29 on the merits. Thus the only real question at hand is whether or not claim 29 reads on the elected species.

As the basis for holding that claim 29 did not read on the elected species, the examiner stated in the action of November 8, 2006, that the elected species includes features such as filter media that are not found in claim 29. However, claim 29 uses 'comprising' language and is thus open to further limitations. Further there is no requirement that a claim recite *all* the disclosed features of an elected species for that claim to said to read on the elected species. It is sufficient if the features of the given claim can be read onto the elected species.

As the second reason for holding that claim 29 does not read on the elected species, the examiner stated that claim 29 recited 'an inlet port thru which liquid to be stored can be conveyed' which was allegedly not shown in the elected species. However, the pipe entering the container shown in Figure 12 can reasonably be described as an inlet port.

In comparing claim 1 and 29, it can be seen that claim 1 recites a water treatment apparatus whereas claim 29 recites a liquid storage apparatus. In other respects, all the structure recited in claim 1 is also recited in claim 29. A mere difference in intended use does not distinguish apparatus claims, particularly since a water treatment apparatus would necessarily also store the treated liquid, at least during treatment thereof. Thus, if claim 1 can be said to read on the elected species, claim 29 must also be said to read on the elected species, as there is essentially no structural difference between the claims.

Since claim 29 reads on the elected species, it should be examined on its merits.

Accordingly, the petition for examination of claim 29 is **GRANTED.** The examiner is instructed to promptly issue a new Office action which treats claim 29 on the merits. In the event claim 29 is rejected, the action shall be non-final.

JMStone

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

Anthony Asquith
#28 - 461 Columbia Street West
Waterloo ON N2T 2P5 CA CANADA

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VAN PELT, YI & JAMES LLP AND ADOBE SYS. INCORP.
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014

Mail Date: 04/21/2010

Applicant	: Michael D. Schuster	: DECISION ON REQUEST FOR
Patent Number	: 7613341	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1184** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

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OFFICE OF PETITIONS

In re Patent No. 7,256,785	:	
Issue Date: August 14, 2007	:	
Application No. 11/109,837	:	DECISION ON PETITION
Filed: April 19, 2005	:	
Attorney Docket No. ADOBB090	:	

This is a decision on the petition under 37 CFR 1.182, filed July 21, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

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

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received; and

3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the evidence required to establish nonreceipt of the original Letters Patent. In this regard, it is noted that the Office records reflect that the Letters Patent was mailed to the address of record at the time; namely, Van Pet, Yi & James LLP, 10050 N. Foothill Blvd. #200, Cupertino, CA 95014, on August 14, 2007. The evidence submitted does not establish nonreceipt of the Letters Patent at that address.

Telephone inquiries concerning this decision may be directed to JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Naomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 129.

A copy of this decision is being faxed to Office of Data Management for issuance of a duplicate Letters Patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Naomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (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
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THE LAW OFFICES OF
CHRISTOPHER K. GAGNE
C/O CPA GLOBAL
B.O. BOX 52050
MINNEAPOLIS MN 55402

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Lewites, et al.	:	
Application No. 11/109,842	:	DECISION
Filed: 19 April, 2005	:	
Attorney Docket No. P21217	:	

This is a decision on the papers considered as a petition filed on 15 July, 2008, to expunge from the application certain materials under the provisions of 37 C.F.R. §1.59.

The (papers considered as a) petition to expunge under 37 C.F.R. §1.59 is **DISMISSED**.

The conditions for a petition pursuant to 37 C.F.R. §1.59 are set forth in the regulation, to wit:

> **§ 1.59 Expungement of information or copy of papers in application file.**
> (a)...
>
> (1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or §41.7(a) of this title.
> (2)Information forming part of the original disclosure (*i.e.*, written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§1.63 and 1.175) will not be expunged from the application file.
>
> (b)An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in §1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
>
> (c)Upon request by an applicant and payment of the fee specified in §1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (*see*

§§1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

Guidance in this matter is set forth at MPEP §724.05 and §724.06. The guidance at MPEP §724.05 provides in pertinent part:

724.05 Petition To Expunge Information or Copy of Papers in Application File [R-6]

I. INFORMATION SUBMITTED UNDER MPEP §724.02

A petition under 37 C.F.R. §1.59(b) to expunge information submitted under MPEP §724.02, or that should have been submitted under MPEP §724.02 (as where proprietary information is submitted in an information disclosure statement but inadvertently not submitted in a sealed envelope as discussed in MPEP §724.02) will be entertained only if the petition fee (37 C.F.R. §1.17(g)) is filed and the information has been found *not* to be **>material to< patentability. If the information is found to be **>material to< patentability, any petition to expunge the information will be denied. Any such petition to expunge information submitted under MPEP §724.02 should be submitted at the time of filing the information under MPEP §724.02 and directed to the Technology Center (TC) to which the application is assigned. Such petition must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 C.F.R. §1.17(g) for a petition under 37 C.F.R. §1.59(b).

Any such petition to expunge should accompany the submission of the information and, in any event, must be submitted in sufficient time that it can be acted on prior to the mailing of a notice of allowability or a notice of abandonment for original and reissue applications, or prior to>, or shortly after (i.e., in time to be addressed before the reexamination proceeding enters the reexamination certificate printing process),< the mailing of a Notice of Intent to Issue Reexamination Certificate (NIRC) for reexamination proceedings. Timely submission of the petition is, accordingly, extremely important. If the petition does not accompany the information when it is initially submitted, the petition should be submitted while the application or reexamination is pending in the Technology Center (TC) and before it is transmitted to the Publishing

Division. If a petition to expunge is not filed prior to the mailing of a notice of allowability or a notice of abandonment for original and reissue applications, or prior to>, or shortly after (i.e., in time to be addressed before the reexamination proceeding enters the reexamination certificate printing process),< the mailing of a NIRC for reexamination proceedings, any material then in the file will remain therein and be open to the public in accordance with 37 C.F.R. §1.14. Accordingly, it is important that both the submission of any material under MPEP §724.02and the submission of any petition to expunge occur as early as possible during the examination process. The decision will be held in abeyance and be decided upon the close of prosecution on the merits.

II. INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 C.F.R. §1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 C.F.R. §1.56; and
(F) the petition fee as set forth in 37 C.F.R. §1.17(g) is included.

A request to expunge information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be treated on a case-by-case basis. Applicants should note that unidentified information that is a trade secret, proprietary, or subject to a protective order that is submitted in an Information Disclosure Statement may inadvertently be placed in an Office prior art search file by the examiner due to the lack of such identification and may not be retrievable.

***

BACKGROUND

The record reflects as follows:

The Examiner mailed a non-final Office action mailed on 4 April, 2008, with reply due absent extension of time on or before 5 July, 2008.

On 30 May, 2008, Petitioner filed a reply in the form of an amendment.

On 2 July, 2008, Petitioner filed another reply in the form of an amendment (with request and fee for extension of time).

On 15 July, 2008, Petitioner filed:

- a Revocation/Power of Attorney with a Certificate pursuant to 37 C.F.R. §3.73(b); and
- a petition pursuant to 37 C.F.R. §1.59, averring improvident filing of the amendment of 2 July, 2008.

With regard to the regulations at 37 C.F.R. §1.59 that the provisions of the rule are set forth above, as is the guidance provided in the Commentary at MPEP §724.05. (See also MPEP §724.06.)

Petitioner has failed to satisfy the requirement that Petitioner make the affirmative showings as set forth in the guidance at MPEP §724.05(I) items (A) through (E) and/or MPEP §724.05(II) items (A) through (F), as applicable.

(The Office will not return documents from a/the physical file because it is Office policy not to remove paper from files that have been scanned. Even if a petition "to expunge" is granted as to one or more documents with regard to an application or patent, the image of the recorded document will remain in the records of the Office. However, the Office will close the images in the application or patent that was the subject of the petition so that no information about the recorded document will appear when someone searches for the application or patent number in the electronic file.)

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.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

CONCLUSION

The petition to expunge under 37 C.F.R. §1.59 is **DISMISSED**.

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

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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/26/09

Paper No.: ——

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/109842 Patent No.: 7561531 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: O.K. to Enter

/SER/ 09-01-2009

SPE

2419
Art Unit

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OFFICE OF PETITIONS

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

In re Application of	:	
MILLS, Alden M. et al.	:	
Application No. 11/109,866	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO WITHDRAW
Attorney Docket No. **2917-000002/US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 2007.

The request is **APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ALDEN M. MILLS**
28 MURRAY AVENUE
LARKSPUR, CA 94939

cc: **MATTHEW J. LATTIG**
MCGRATH, GEISSLER, OLDS & RICHARDSON, P.L.L.C.
10560 MAIN STREET, SUITE 213
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

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

In re Patent No.7,495,012	:	
Degraffenreid, et al.	:	DECISION DISMISSING
Application No. 11/109,871	:	REQUEST FOR
Issue Date: February 24, 2009	:	RECONSIDERATION OF
Filed: April 20, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.038923-0111	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed April 10, 2009, which is properly treated pursuant to 37 CFR 1.705(d). Patentees requests that the determination of patent term adjustment be corrected from four hundred fifty-eight (458) days to seven hundred sixty-eight (768) 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 458 days.

BACKGROUND

This application was filed on April 20, 2005. On February 24, 2009, the application matured into U.S. Patent No. 7,495,012, with a revised patent term adjustment of 458 days. The Office determined that the 310 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[1] overlaps with the 463

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

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[3] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 463 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. The patent issued with a revised patent term adjustment of 458 days.

On April 10, 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 768 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 773 (463 +

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(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
(5) Any delay in the processing of the application by the Office that was requested by the applicant.

[2] A restriction requirement was mailed on September 26, 2007, 14 months and 463 days after the application was filed on April 20, 2005.

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

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

310) days as these periods do not occur on the same day. Patentees asserts entitlement to 768 (Office delay of 463 + 310 days - applicant delay of 5 days) 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)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years

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[4] Likewise, 37 CFR 1.703(f) provides that:

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

> 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 20, 2005, and ending on the date the patent issued, February 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),463 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), 310 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 310 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 463 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 463 days and the 310 days is neither permitted nor warranted. 463 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 458 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

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OFFICE OF PETITIONS

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

In re Patent No. 7, 495,012	: DECISION ON REQUEST
Degraffenreid, et al.	: FOR
Issue Date: February 24, 2009	: RECONSIDERATION OF
Application No. 11/109,871	: PATENT TERM ADJUSTMENT
Filed: April 20, 2005	: and
Atty Docket No. 038923-0111	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 13, 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 seven hundred and sixty- eight (768) 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 seven hundred and sixty- eight (768) days is **GRANTED**.

Deposit account 19-0741 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). The fee is required for the instant request for reconsideration of the patent term adjustment and will not be refunded. No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and sixty- eight (768) days.**

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

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,495,012 B2

DATED : Feb. 24, 2009

INVENTOR(S) : DeGraffenreid 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 (458) days

Delete the phrase "by 458 days" and insert – by 768 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Timothy L. Rose	: DECISION ON REQUEST FOR
Patent Number	: 7661493	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **282** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Neal Conrad Oliver	: DECISION ON REQUEST FOR
Patent Number	: 7580386	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **381** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

GANZ LAW, P.C.
P O BOX 2200
HILLSBORO OR 97123

In re Application of

Mark D. Owen et al.
Application No. 11/109,903
Filed: April 19, 2005
Attorney Docket No. PHO-2.007.US

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, 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, ***a change in ownership of the patent application; the new owner has not employed the attorneys at customer number 22874***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Scott Igl,**
Phoseon Technologies, Inc.
7425 NW Evergreen Parkway, Suite 150
Hillsboro, OR 97124

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/3/08

Paper No.: ___

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/109926 Patent No: 7256350B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: /CN/ 9/24/2008

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER
SPE

2831
Art Unit

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Patent No. 7,530,191	:
Atilla Szabo	:
Issue Date: May 12, 2009	: DECISION ON REQUEST FOR
Application No. 11/109,934	: RECONSIDERATION OF
Filed: April 20, 2005	: PATENT TERM ADJUSTMENT
Atty Docket No. 05736.0059-00000	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed July 8, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from three hundred fifty-six (356) days to seven hundred forty-three (743) 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 356 days.

The above-identified application was filed on April 20, 2005. On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,530,191 with a revised patent term adjustment of 356 days. The Office determined that the 387 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR 1.702(b),

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

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

overlap with the 447 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1).[3] As such, the Office allowed entry of only the period of adjustment of 447 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 91 days of applicant delay, the patent issued with a revised patent term adjustment of 356 days.

On July 8, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment is 743 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). Given the 91 days of applicant delay, patentees assert entitlement to 743 days of patent term adjustment.

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

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

---

[2] The Office did not mail a non-final Office action until September 10, 2007, 14 months and 447 days after the application was filed on April 20, 2005.

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 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

---

[4] Likewise, 37 CFR 1.703(f) provides that:

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

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on April 20, 2005, and ending on the date of the issuance of the patent on May 12, 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), 447 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 387 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application. All 387 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 447 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 387 days and the 447 days is neither permitted nor warranted. 447 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 387 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 356 days.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized. No additional fees are required.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Atilla Szabo	: DECISION ON REQUEST FOR
Patent Number	: 7530191	: RECALCULATION of PATENT
Issue Date	: 05/12/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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	: Christopher B. Weare	: DECISION ON REQUEST FOR
Patent Number	: 7599916	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,950	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Chishti and Wirth	:	
Application No. 11/109,978	:	DECISION ACCORDING STATUS
Filed: 19 April, 2005	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 018563-00192US	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 13 July, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Muhammad Chishti, has refused to review the sign the declaration after having been sent a copy of the application via his counsel. Specifically, petitioners have shown that a copy of the application papers were sent to the non-signing inventor's counsel, but that the non-signing inventor refused, via his attorney to sign the declaration naming him as a joint inventor along with Kelsey Wirth.

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

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

The application is being referred to Technology Center Art Unit 3732 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND, OR 97205-3335

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OFFICE OF PETITIONS

In re Application of	:	
Biber, et. Al	:	DECISION ON PETITION
Application No. 11/109,980	:	
Filed: April 19, 2005	:	
Docket No.: IFC 358CON	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 4, 2006.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed July 3, 2006. Notice of Abandonment was mailed October 17, 2006.

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of Thomas J. Perkowski Application No. 11/109,981 Filed: April 19, 2005 Attorney Docket No. 100-010USANB0	: : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

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 August 22, 2005.

The request is **NOT APPROVED**.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Thomas John Mahony	:	
Application No. 11/109,983	:	DECISION ON PETITION
Filed: April 19, 2005	:	TO WITHDRAW
Attorney Docket No. 040172-001800US	:	FROM RECORD

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 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 William F. Vobach on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee of interest at the address indicated below.

There is an outstanding Notice of Allowance and Fee(s) Due action that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **BSI2000, Inc.**
1153 Bergen Parkway
Suite M350
Evergreen, CO 80439

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/109,983	04/19/2005	Thomas John Mahony	040172-001800US

CONFIRMATION NO. 1713

OC000000025707105

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 09/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/20/2007.

- 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.

J. Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Joseph R. Madsen	: DECISION ON REQUEST FOR
Patent Number	: 7618391	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,987	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Joo-Young Kim	: DECISION ON REQUEST FOR
Patent Number	: 7616963	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/109,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
CREUNDOLO, Daniel	:	
Application No. 11/110,004	:	DECISION GRANTING PETITION
Filed: April 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **00280.70003US00**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 9,2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application 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.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/05/2010

Applicant	: Tom Kwan	: DECISION ON REQUEST FOR
Patent Number	: 7649345	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/110,008	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **568** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

In re Application of	:	
Vevea and Ellingson	:	Decision Refusing to Accord
Application No. 11/110,010	:	Status Under 37 CFR 1.47(a)
Filed: April 20, 2005	:	
Attorney Docket No. 9507.19091	:	

This is a decision on the petition under 37 CFR 1.47(a), filed December 21, 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. No further petition fee is required for the request. 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.**

Facts:

Application no. 10/178,331 was filed on June 21, 2002, and is currently pending. The declaration for the application was signed by both of the inventors - Ellingson and Vevea. Inventor Vevea executed the declaration on September 19, 2002. Ellingson executed the declaration on September 20, 2002.

The instant application was filed on April 20, 2005. The title for the instant application is identical to the title for application no. 10/178,331. The first sentence of the instant application's specification states the application is a continuation of application no. 10/178,331.

Vevea executed the declaration for the instant application. Ellingson has not executed the declaration.

A copy of the declaration for the instant application was sent to Marshfield Clinic, the current employer of Ellingson and former employer of Vevea. A copy of the declaration and application were not sent directly to Ellingson.

In a response to a letter from petitioner, Marshfield Clinic alleges it is the assignee of all and any rights Vevea has in the invention. In addition, Marshfield Clinic states Vevea is not an inventor

of the subject matter. However, a Rule 48 petition to delete Vevea as an inventor has *not* been filed in application no. 10/178,331.

Opinion:

A refusal to sign will not be imputed to the inventor under the circumstances. At this point in time, the non-signing inventor may not even be aware the instant application has been filed. A statement by his employer that he will not sign the declaration is not the equivalent of an actual refusal by the inventor.

Petitioner should send a copy of the application directly to the inventor along with instructions setting a deadline for the return of a signed declaration. The letter to the inventor should state that a failure to receive a reply will be interpreted 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.

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
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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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OFFICE OF PETITIONS

In re Application of	:	
Vevea and Ellingson	:	Decision According
Application No. 11/110,010	:	Status Under 37 CFR 1.47(a)
Filed: April 20, 2005	:	
Attorney Docket No. 9507.19091	:	

This is a decision on the renewed petition under 37 CFR 1.47(a), filed May 12, 2006.

The petition is **granted**.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Katsunari Inagaki	: DECISION ON REQUEST FOR
Patent Number	: 7625981	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,012	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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RIDOUT & MAYBEE LLP
225 KING STREET WEST
10TH FLOOR
TORONTO, ON M5V 3M2
CANADA

Mail Date: 04/21/2010

Applicant	: Yuri Peric	: DECISION ON REQUEST FOR
Patent Number	: 7644732	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of :
Lenard Moen : DECISION ON PETITION
Application No. 11/110,048 :
Filed: April 19, 2005 :
Atty Docket No. 54890/DRK/M961:

This is a decision on the PETITION AND RESPONSE TO NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION UNDER 37 C.F.R. § 1.182, filed July 22, 2005, requesting that the above-identified application be amended to include a drawing containing Figure 26.

Application papers in the above-identified application were deposited on April 19, 2005. However, on May 20, 2005, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items in a Nonprovisional Application," notifying applicant that the application papers had been accorded a filing date of April 19, 2005; however, figure 26 described in the specification appeared to have been omitted.

In response, the present petition was timely filed requesting, in effect, that the application be amended to include the drawing of Figure 26 described in the specification.

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, petitioner neither asserts that the missing drawing figure was deposited on April 19, 2005, nor requests the July 22, 2005 (the date the drawing was supplied) filing date. (In fact, petitioner acknowledges that the application as filed did not include figure 26).

Instead, applicant seeks to amend the application to include the drawing figure. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded as the petition was not necessary to correct any error on the part of the Office.

It is noted that the application as filed claims benefit of provisional application No. 60/565,548, filed April 27, 2004[1].

---

[1] Petitioner is advised that effective September 21, 2004, (to apply to applications filed on or after September 21, 2004) 37 C.F.R. § 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

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of April 19, 2005, including an indication in Office records that 7 sheets of drawings were present on filing.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the petition filed July 22, 2005, as an amendment requesting entry of a new drawing sheet. (Petitioner may wish to follow-up with the examiner regarding this matter).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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; …

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HOWISON & ARNOTT
P.O. BOX 741715
DALLAS, TX 75374-1715

In re Application of	:	
Carles Puente Baliarda et al	:	
Application No. 11/110,052	:	ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. FRAC-27,117	:	

This is a decision on the petition, filed May 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 WEST ADAMS STREET
SUITE 3600
CHICAGO, IL 60603

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APR 2 1 2008

OFFICE OF PETITIONS

In re Application of :
METCALF, Lillie M. :
Application No. 11/110,057 : DECISION ON PETITION
Filed: April 20, 2005 : TO WITHDRAW
Attorney Docket No. **2154/41813/Case 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 November 16, 2007.

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

A review of the file record indicates that the power of attorney to TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR, LTD. has been revoked by the applicant of the patent application on March 27, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LILLIE M. METCALF**
543 S. GUNDERSON AVE.
OAK PARK IL 60304

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LAW OFFICE OF MARTIN JERISAT
10 S. CASALLE STREET, SUITE 3300
CHICAGO IL 60603

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of

METCALF, Lillie M.
Application No. 11/110,057
Filed: April 20, 2005
Attorney Docket No. **2154/41813/Case 1**

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 20, 2009 and re-submitted May 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. 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 Martin Jerisat, the sole attorney of record. Martin Jerisat 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.

All future correspondence will be directed to the inventor Lillie Metcalf at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LILLIE METCALF**
543 S. GUNDERSON
OAK PARK IL 60304

UNITED STATES 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

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH MI 49085

COPY MAILED

SEP 14 2005

OFFICE OF PETITIONS

In re Application of :
Karen M. Embury and M. Sells :
Joel :
Application No. 11/110,063 :
Filed: July 11, 2005 : DECISION ON PETITION
Attorney Docket No. US20040240 : UNDER 37 C.F.R. §1.182
Title: METHOD FOR BAKING BREAD :
USING STEAM :

This is a decision on the petition filed July 11, 2005.

On April 20, 2005, the above-identified application was deposited. On May 18, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application - Filing Date not Granted (notice)", advising applicant that the application had not been accorded a filing date, and further indicating that a filing date would be accorded upon the depositing of at least one claim. The Notice set a two-month period for response.

On July 11, 2005, Petitioner submitted this petition, along with a 13 page substitute specification, 21 claims, an abstract, a declaration which has been executed by both of the joint inventors, and the $400 petition fee. Based on this petition, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawing as the filing date.

The petition is **GRANTED**.

The Office of Initial Patent Examination will be advised to process this application with a **filing date of July 11, 2005**, the date of receipt of the formerly omitted item, the claims, using

the application papers deposited on April 20, 2005, as well as the substitute specification and the claims submitted with the petition on July 11, 2005. **OIPE will then mail a corrected filing receipt**.

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

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

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Murabito, Hao & Barnes LLP
2 N. Market Street
3rd Floor
San Jose, CA 95113

Mail Date: 04/21/2010

Applicant	: Robert Bedichek	: DECISION ON REQUEST FOR
Patent Number	: 7617088	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,085	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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PATENT DEPARTMENT
TAYLOR, PORTER, BROOKS & PHILLIPS, L.L.P
P.O. BOX 2471
BATON ROUGE LA 70821-2471

10/8/07

In re Application of:
Kelly, Kevin W., et al.
Serial No.: 11/110,113
Filed: Oct. 25, 2001
Docket: 9911.2D
Title: CROSSFLOW MICRO HEAT EXCHANGER

DECISION ON PETITION

This is a decision on the petition filed on Feb. 27, 2007 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed Feb. 14, 2006, and that non-elected claims 28-34 be rejoined and examined on the merits. Claims 22 and 35 were elected for examination. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the record reveals that a restriction requirement was made between two disclosed and claimed related inventions: 1) a heat exchanger and 2) a method of making a heat exchanger. Claims 22 and 35 are drawn to a heat exchanger, and claims 28-34 are drawn to the method of making a heat exchanger.

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP 802.01. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process as claimed can be used to make another and materially different product or (2) the product as claimed can be made by another and materially different process. See MPEP 806.05(f)[1].

[1] MPEP § 806.05(f) [R-5] Process of Making and Product Made A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make another materially different product; or (B) that the product as claimed can be made by another materially different process. Allegations of different processes or products need not be documented. A product defined by the process by which it can be made is still a product claim (In re Bridgeford, 357 F.2d 679, 149 USPQ 55 (CCPA 1966)) and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process; defining the product in terms of a process by which it is made is nothing more than a permissible technique that applicant may use to define the invention. If applicant convincingly traverses the requirement, the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement.

In the instant application, the distinctness between the claimed inventions was justified in that the product as claimed can be made by another and materially different process, such as any material other than a polymer is used as the fugitive forming material upon which metal is plated.

In the election of Apr. 18, 2006, the applicant traversed the rationale advanced by the examiner by basically arguing that the examiner did not provide reasons and/or examples to support the conclusions. In particular, the examiner did not provide any alternative process to satisfy the requirement of MPEP § 806.05(f). In the petition, petitioner argues that the examiner did not carry out the burden of showing that Groups I and II are distinct. The examiner further failed to show any presence of serious search burden. Therefore, there would be no distinction between the method of making claims and the product claims. Since the examiner has examined the non-elected claims 28-34, then, no search burden exists. The restriction is not justified.

However, such traversal is not persuasive because the product claim 22 could use any material other than a polymer as the fugitive forming material upon which metal is plated as suggested by the examiner. The applicant did not dispute the examiner's position. As a matter of fact, the applicant has admitted that it is his/her intention not to rule out such possibility on page 2 of the response to the restriction requirement filed on Apr. 18, 2006. It is also noted that the product claim 22 does not require a metal plated polymer sheet. Whereas the method claim 28 does not require any copper, aluminum, copper alloy, nickel and nickel-boron alloy. Therefore, it is clear that the product as claimed can be made by a different process other than applying a polymer as a forming material. The examiner has satisfied the requirement set forth in MPEP § 806.05(f).

Furthermore, as part of any restriction requirement, the search and examination for each of these two claimed inventions must be considered a serious burden on the examiner if restriction were not required. See MPEP 808.02[2]. Aside from the different classifications indicated in the requirement, the search for the process claims would involve a search in areas such as where assembling methods are found, for example, in classes 29 and 264, which are diverse from the search for the product claims. However, in the present application, on Jun. 22, 2006, the examiner had mistakenly searched and examined the non-elected claims 28-34. As a result of this, there does not appear to be any serious search burden on the part of the examiner to continue examining those non-elected and once examined claims 28-34. Under the circumstances, the restriction requirement of Feb. 14, 2006 is hereby withdrawn. The examiner

[2] MPEP § 808.02 [R-5] Establishing Burden Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held. Where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:(A) Separate classification thereof : This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification. (B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search. (C)A different field of search : Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search. Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

is directed to consider the amendment filed on Dec. 28, 2006 regarding the already examined non-elected claims 28-34.

Conclusion

In view of the fact that the examiner has already searched and examined the non-elected claims 28-34, the restriction requirement promulgated in the Office communication dated Feb. 14, 2006 is withdrawn. The relief requested in the petition is granted.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3753 for further consideration of the amendment filed on Dec. 28, 2006. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Shumeet Baluja	: DECISION ON REQUEST FOR
Patent Number	: 7587461	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,116	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **285** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NANCY A. BIRD
231 WALTON AVENUE
SOUTH ORANGE, NJ 07079

In re Application of	:	
Michelle Bailey	:	
Application No. 11/110,130	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO WITHDRAW
Attorney Docket No. MB1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 8, 2006.

The request is **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, "withdrawal from practice necessitated by three days of cancer treatment per week", 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.

There is an outstanding Office mailed October 16, 2006 that requires a response by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHELLE BAILEY
2018 WOLCOTT AVENUE
WILMINGTON, NC 28403

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

Mail Date: 04/27/2010

Applicant	: Aykut Bultan	: DECISION ON REQUEST FOR
Patent Number	: 7603133	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/110,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1190** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 19 2005

TECHNOLOGY CENTER 3600

LARRY D. JOHNSON
P.O. BOX 470277
CLEBRATION, FL 34747

In re application of	:	**DECISION ON PETITION**
David A. W. Curtis	:	**TO MAKE SPECIAL**
Application No. 11/110,168	:	**(ACCELERATED**
Filed: April 20, 2005	:	**EXAMINATION)**
For: FASTENER APPARATUS FOR ROOFING AND STEEL BUILDING CONSTRUCTION		

This is in response to the petition filed on July 11, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The petition fails to adequately meet requirements (B) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

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

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

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

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

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

SNM/dew: 09/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 19 2005

LARRY D. JOHNSON
P.O. BOX 470277
CELEBRATION, FL 34747

In re application of David A. W. Curtis Application No. 11/110,168 Filed: April 20, 2005 For: FASTENER APPARATUS FOR ROOFING AND STEEL BUILDING CONSTRUCTION	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on September 30, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

KJD/dew: 10/06/05

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DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
CURTIS, David, A.	:	
Application No. 11/110,168	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO WITHDRAW
Attorney Docket No. 821.02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 2006.

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

A review of the file record indicates that the power of attorney to Michael E. Dergosits of DERGOSITS & NOAH LLP has been revoked by the applicant of the patent application on August 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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: **DAVID A. CURTIS**
P.O. BOX 1046
VERDI, NEVADA 89439

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/110,168	04/20/2005	David A. W. Curtis	53007	2894

27015 7590 11/07/2008
LAW OFFICES OF CHARLES L. THOEMING
BIELEN, LAMPE & THOEMING, P.A.
TWO CORPORATE CENTRE 1390 WILLOW PASS ROAD
SUITE 1020
CONCORD, CA 94520

EXAMINER
SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
3677	

MAIL DATE	DELIVERY MODE
11/07/2008	PAPER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081022

DATE : November 13, 2008

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction on Patent No.: 7329077 B2

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-910
Palm location 7590 - Tel. No. 305-8201

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

Thank You For Your Assistance

Certificates of Correction Branch

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

☒ Approved — All changes apply.

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

☐ Denied — State the reasons for denial below.

Comments:

Replace patented claims with the claims (1-23) set forth in the Certificate of Correction filed (02/12/2008). It appears that the examiner's amendment was missed and the wrong claims were printed.

SPE: /Victor Batson/ Art Unit 3677

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Prasanna Malaviya	: DECISION ON REQUEST FOR
Patent Number	: 7569233	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,169	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **434** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 04/21/2010

Applicant	: Frederic Fort	: DECISION ON REQUEST FOR
Patent Number	: 7651053	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,174	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **923** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BOWLES RICE MCDAVID GRAFF & LOVE LLP
POST OFFICE BOX 1386
CHARLESTON, WV 25325-1386

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Kipp et al.	:	
Application No. 11/110,185	:	DECISION REFUSING
Filed: April 20, 2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47
CONCRETE FINISHING ATTACHMENT	:	

This decision is in response to the Petition Under § 1.47(a), filed February 1, 2006. The petition is properly treated under 37 CFR 1.47(a), 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 20, 2005, and included the instant petition and declaration of inventors. A review of the declaration reveals that it lists only inventor Kelly Kipp.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s). Applicant lacks item (2) as set forth above.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure 409.03(a), At Least One Joint Inventor Available, provides:

> 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, requires all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:
>
> > (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. <u>An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated</u>.

Applicant must list the full name, residence, post office address, and citizenship of the all inventors, signing and/or nonsigning, on the Declaration, and have the declaration executed by the available joint inventors. A properly executed oath or declaration is required.

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 facsimile: (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

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BOWLES RICE MCDAVID GRAFF & LOVE LLP
POST OFFICE BOX 1386
CHARLESTON, WV 25325-1386

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In re Application of	:	
Kipp et al.	:	
Application No. 11/110,185	:	DECISION GRANTING
Filed: April 20, 2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47
CONCRETE FINISHING ATTACHMENT	:	

This decision is in response to the Request for Reconsideration of Petition Under § 1.47(a), filed May 5, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, John H. Kipp, Jr., refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

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Mr. JOHN H. KIPP, Jr.
204 F BROADWAY AVENUE
BROADWAY, VA 22815

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MAY 31 2006
OFFICE OF PETITIONS

In re Application of	:	
Kipp et al.	:	
Application No. 11/110,185	:	LETTER
Filed: April 20, 2005	:	
Title of Invention:	:	
CONCRETE FINISHING ATTACHMENT	:	

Dear Mr. Kipp:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: BOWLES RICE MCDAVID GRAFF & LOVE LLP
POST OFFICE BOX 1386
CHARLESTON, WV 25325-1386

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LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

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DEC 17 2008

OFFICE OF PETITIONS

In re Application of
Yong S. Park
Application No. 11/110,201
Filed: April 20, 2005
Attorney Docket No. BESTEX-1

: DECISION GRANTING PETITION

This is a decision on the petition filed October 21, 2008 under 37 CFR 1.137 (b) to revive the above-identified application.

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

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided in 37 CFR 1.192(a). A Notice of Appeal was filed October 26, 2007. On December 24, 2007, an appeal brief was filed. On January 17, 2008, a Notification of Non-Compliance with 37 CFR 1.192 (c) was mailed. In response, a Supplemental Appeal Brief was filed January 24, 2008. On January 30, 2008 a second Notification of Non-Compliance with 37 CFR 1.192 (c) was mailed. No response having been filed, this application became abandoned March 3, 2008. Accordingly, a Notice of Abandonment was mailed August 29, 2008.

Comes now petitioner with the instant petition to revive and an Appeal Brief under 37 CFR 41.37. The Examiner of record has indicated that the Appeal Brief submitted October 21, 2008 with the instant petition is acceptable.

This application is being forwarded to Technology Center 3641 for review of the Appeal Brief filed October 21, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Xiao Xu, et al.	:	
Application No. 11/110,203	:	DECISION GRANTING PETITION
Filed: April 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 532712000400	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 17, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
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SUITE 100
SAN DIEGO CA 92130-2040

In re Patent No. 7,622,507	:	DECISION ON REQUEST FOR
Xu et al.	:	RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 11/110,203	:	NOTICE OF INTENT TO ISSUE
Filed: April 20, 2005	:	CERTIFICATE OF CORRECTION
Atty. Docket No. 532712000400	:	

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred twenty-three (623) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **four hundred eighty-three (483) days**.

Patentee acknowledges 325 days of A delay, 452 days of delay under 37 CFR 1.702(b), and 92 days of overlap. However, patentee incorrectly calculated B delay and applicant delay.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C.

154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4)[1] provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

The Office agrees with patentee that the "over three year period" is 452 days. However, patentee failed to account for the filing of the notice of appeal on September 17, 2008. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 63 days, beginning on the date on which the notice of appeal was filed, September 17, 2008, and ending on the date which the notice of allowance was mailed, November, 18, 2008. Thus, B delay is 389 days (452 - 63).

The record further reveals that patentee should have been assessed delay under 37 CFR 1.704(c)(10) for the submission of the petition to withdraw from issue on July 17, 2009, the Request for Continued Examination (RCE) and Amendment on July 17, 2009, and the Supplemental Amendment on July 28, 2009.

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or

[1] The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, **whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences**. 37 CFR 1.703(b) (emphasis added).

(ii) Four months;

In this instance, it is undisputed that patentee submitted the petition to withdraw from issue on July 17, 2009, the RCE and Amendment on July 17, 2009, and the Supplemental Amendment on July 29, 2009, after the mailing of the notice of allowance on November 18, 2008 (and payment of the issue fee on February 6, 2009). Thus, patentee failed to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10).

Pursuant to 37 CFR 1.704(c)(10), patentee should have been assessed the following periods of reduction:

- 4 days for the submission of the petition to withdraw from issue on July 17, 2009, after the mailing of the notice of allowance (and payment of the issue fee), from July 17, 2009, the date the petition to withdraw from issue was filed, to July 20, 2009, the mailing date of the decision in response to the petition.

- 77 days for the submission of the RCE and Amendment on July 17, 2009, after the mailing of the notice of allowance (and payment of the issue fee), from July 17, 2009, the date the RCE and Amendment were filed, to October 1, 2009, the mailing date of the notice of allowance; and,

- 66 days for the submission of the Supplemental Amendment on July 28, 2009, after the mailing of the notice of allowance (and payment of the issue fee), from July 28, 2009, the date the Supplemental Amendment was filed, to October 1, 2009, the mailing date of the notice of allowance.

37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application … will result in the following reduction of the period of adjustment set forth in § 1.703 <u>to the extent that the periods are not overlapping</u>." (Emphasis added).

In this instance, the periods under 37 CFR 1.704(c)(10) overlap. Specifically, the period of reduction for the submission of the RCE and Amendment on July 17, 2009, from July 17, 2009 to October 1, 2009, completely overlaps the other periods of

reduction. Therefore, a single period of reduction of 77 days will be entered and the total applicant delay will be 139 days (62 + 77).

In view of the above, the patent term adjustment is 483 days (325 days of A delay + 389 days of B delay - 92 days of overlap - 139 days of applicant delay).

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

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred eighty-three (483) days**.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,622,507 B2

DATED : Nov. 24, 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 391 days

Delete the phrase "by 391 days" and insert – by 483 days--

PALM INTRANET

Day Monday
Date: 7/19/2010
Time: 08:42:40

PTA Calculations for Application: 11/110203			
Application Filing Date:	04/20/2005	PTO Delay (PTO):	453
Issue Date of Patent:	11/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	62
Post-Issue Petitions:	0	Total PTA (days):	483
PTO Delay Adjustment:	92		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
88	07/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	169		
87	07/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		77	
83.5	11/04/2009	PTA 36 MONTHS	128		
83	11/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
82	10/20/2009	EXPORT TO FINAL DATA CAPTURE			
81	10/19/2009	DISPATCH TO FDC			
80	10/16/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
79	10/13/2009	ISSUE FEE PAYMENT VERIFIED			
78	10/13/2009	ISSUE FEE PAYMENT RECEIVED			
76	10/05/2009	EXPORT TO INITIAL DATA CAPTURE			
75	10/01/2009	MAIL NOTICE OF ALLOWANCE			
74	09/30/2009	ISSUE REVISION COMPLETED			
73	09/30/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	09/30/2009	CASE DOCKETED TO EXAMINER IN GAU			
71	09/30/2009	DOCUMENT VERIFICATION			
70	09/29/2009	NOTICE OF ALLOWABILITY			
68	09/06/2009	DATE FORWARDED TO EXAMINER			
67	07/28/2009	RESPONSE AFTER NON-FINAL ACTION			
66	08/25/2009	FINISHED INITIAL DATA CAPTURE			
65	07/22/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
64	07/21/2009	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
63	07/21/2009	DATE FORWARDED TO EXAMINER			
62	07/17/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
61	07/21/2009	DATE FORWARDED TO EXAMINER			
60	07/17/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
59	07/21/2009	DISPOSAL FOR A RCE / CPA / R129			
58	07/21/2009	WORKFLOW - QUERY REQUEST - FINISH			
57	07/20/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
56	07/20/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
55	07/17/2009	PETITION ENTERED			
53	07/17/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	02/06/2009	ISSUE FEE PAYMENT VERIFIED			
51	02/06/2009	ISSUE FEE PAYMENT RECEIVED			
50	12/18/2008	PUBS CASE REMAND TO TC			
49	12/23/2008	WORKFLOW - QUERY REQUEST - BEGIN			
48	11/21/2008	EXPORT TO INITIAL DATA CAPTURE			
47	11/18/2008	MAIL EXAMINER'S AMENDMENT			
46	11/18/2008	MAIL NOTICE OF ALLOWANCE	92		34
45	11/18/2008	ISSUE REVISION COMPLETED			
44	11/18/2008	DOCUMENT VERIFICATION			
43	11/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	11/18/2008	EXAMINER'S AMENDMENT COMMUNICATION			
41	10/07/2008	REQUEST FOR REFUND			
40	10/29/2008	NOTICE OF ALLOWABILITY			
37	09/17/2008	NOTICE OF APPEAL FILED			
36	09/17/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	05/01/2008	DATE FORWARDED TO EXAMINER			
34	04/18/2008	AMENDMENT AFTER FINAL REJECTION			
33	03/17/2008	MAIL FINAL REJECTION (PTOL - 326)			
32	03/03/2008	FINAL REJECTION			
31	12/03/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
30	12/17/2007	DATE FORWARDED TO EXAMINER			

29	12/03/2007	RESPONSE AFTER NON-FINAL ACTION		62	27
28	12/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	07/02/2007	MAIL NON-FINAL REJECTION			
26	06/25/2007	NON-FINAL REJECTION			
25	02/09/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	10/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	06/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	06/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	03/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	03/19/2007	DATE FORWARDED TO EXAMINER			
19	03/15/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
18	03/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	02/09/2007	REFERENCE CAPTURE ON IDS			
16.7	02/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	02/08/2007	MAIL RESTRICTION REQUIREMENT	233		-1
14	02/05/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
13	12/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	10/21/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	10/03/2005	REFERENCE CAPTURE ON IDS			
10.7	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	10/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	08/15/2005	APPLICATION DISPATCHED FROM OIPE			
7	08/15/2005	APPLICATION IS NOW COMPLETE			
6	08/04/2005	ADDITIONAL APPLICATION FILING FEES			
5	08/04/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	06/01/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/26/2005	CLEARED BY OIPE CSR			
2	05/23/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/20/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Steve Dillon, et al.	:	
Application No. 11/110,221	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO WITHDRAW
Attorney Docket No. ADEN-031/01US/AE2003011	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 6, 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 Wayne O. Stacy on behalf of all attorneys of record who are associated with customer No. 58249.

All attorneys/agents associated with the Customer Number 58249 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 of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ADVANCED ENERGY INDUSTRIES, INC.
1625 SHARP POINT DRIVE
FORT COLLINS, CO 80525

cc: NEUGEBOREN LAW FIRM, PC
1035 PEARL STREET
SUITE 400
BOULDER, CO 80302

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/110,221	04/20/2005	Steve Dillon	ADEN-031/01US/AE2003011

CONFIRMATION NO. 1958

POWER OF ATTORNEY NOTICE

OC000000026800449

58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 11/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/06/2007.

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

/amwise/

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

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OFFICE OF PETITIONS

NEUGEBOREN LAW FIRM PC
1035 PEARL STREET
SUITE 400
BOULDER, CO 80302

In re Application of	:	
Steve Dillon, et al.	:	
Application No. 11/110,221	:	DECISION ON REQUEST FOR
Filed: April 20, 2005	:	REVOCATION OF POWER
Attorney Docket No. ADEN-031/01US/AE2003011	:	OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed July 24, 2007.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on July 24, 2007 does not include the proper 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ADVANCED ENERGY INDUSTRIES, INC.
1625 SHARP POINT DRIVE
FORT COLLINS, CO 80525

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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APR 28 2010
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In re Application of	:	
Kim et al.	:	
Application No. 11/110,241	:	RESPONSE TO PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 16425US02	:	

This is a response to the petition under 37 CFR 1.59(b), filed May 28, 2009, to expunge information from the above identified application.

The petition is **DISMISSED**.

Applicant is requesting that "the "draft" copy of the Response filed at 12:10 p.m (under EFS No 5317413), and all copies (whether paper or electronic) be expunged from the record and either destroyed or returned to the Applicant."

However, the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. 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 decision on the petition to expunge must be dismissed at this time.

A petition under 37 CFR 1.59(b) requires the $200 fee set forth in 37 CFR 1.17(g) and has been charged to Deposit Account No. 13-0017, as authorized.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F in MPEP 724.05 II, are satisfied, the information will be removed from the official file.

After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicant(s) or applicant(s)' representative. No further fee is required for such a second submission of a petition under 37 CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the present file, or file claiming priority to the present file, is forwarded for issuance of the patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.**

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272 - 4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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55 SOUTH COMMERCIAL STREET
MANCHESTER, NH 03101

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APR 17 2008

In re Application of	:	
Bruce S. Denning	:	
Application No.: 11/110,256	:	ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No.: O2MICRO 05.04	:	

This is a decision on the petition, filed April 17, 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 20, 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 2838 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE, NC 28277

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OFFICE OF PETITIONS

In re Application of	:
Barry G. Lawrence	:
Application No. 11/110,265	: DECISION ON PETITION
Filed: April 20, 2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 8613.4	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition

contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3676 for examination in due course and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/563,928.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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Perkins Coie LLP
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Seattle, WA 98111-1208

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In re Application of	:	
Samuel Zalipsky	:	
Application No. 11/110,272	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO WITHDRAW
Attorney Docket No. 55325-8183.US00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 1, 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 Judy M. Mohr 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: **Samuel Zalipsky**
1202 Truman Street
Redwood City, CA 94061

cc: **Philip S. Johnson**
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/110,272	04/20/2005	Samuel Zalipsky	55325-8183.US00

CONFIRMATION NO. 2100

POWER OF ATTORNEY NOTICE

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

OC000000031826767

Date Mailed: 08/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/01/2008.

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

/tswilliams/

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

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CHARLOTTE NC 28280-4000

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In re Application of	:	
Vladimir Sabetsky	:	DECISION ACCORDING STATUS
Application No. 11/110,282	:	UNDER 37 CFR 1.47(b)
Filed: 20 April, 2005	:	
Atty Docket No. 049934.291271	:	

This is in response to the petition filed on 21 November, 2005, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioner has shown that the sole inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioner has shown, via the declaration of registered patent attorney Andrew T. Meunier, that a copy of the application was sent to the non-signing inventor via his attorney, Frederick Whitmer, and that the non-signing inventor replied by email that he would not sign the declaration. Furthermore, no signed declaration was received from the non-signing inventor. In addition, petitioner has shown, via the agreement between non-signing inventor Vladimir Sabetskey and Rule 47(b) applicant The Technology Development Company, Ltd. (TTDC), that petitioner TTDC has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Thomas A. DeShazo, Manager A (President) of TTDC, and has demonstrated that such action is necessary to preserve the rights of the parties.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at his last known address as listed in the petition, not the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

It is noted that the fee for a petition under 37 CFR 1.47(b) is $200.00. The balance due of $70.00 will be charged to counsel's deposit account, No. 16-0605.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DW Dec-05

Vladimir Sabetsky
Piskarevsky Prospekt 10, q.320
105221 Saint-Petersburg
RUSSIA

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OFFICE OF PETITIONS

In re Application of
Vladimir Sabetsky
Application No. 11/110,282
Filed: 20 April, 2005
For: TISSUE ENHANCEMENT IMPLANT AND METHOD

Dear Dr. Sabetsky:

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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Paper No.

Thomas S. Hahn
FULBRIGHT & JAWORSKI LLP
801 Pennsylvania Avenue NW
Washington DC 20004-2623

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Ka-Ngo Leung	:	DECISION ON PETITIONS
Application No. 11/110,310	:	UNDER 37 C.F.R.
Filed: April 19, 2005	:	§§ 1.137(A) AND 1.181(A)
Attorney Docket No. IB-1764A	:	
Title: CYLINDRICAL NEUTRON	:	
GENERATOR	:	

This is a decision on the two petitions pursuant to 37 C.F.R. §§ 1.137(a)[1], to revive the above-identified application, and 1.181(a), to withdraw the holding of abandonment, both filed concurrently on October 9, 2007.

BACKGROUND

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 April 10, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for

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1 A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply (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;

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;

(4) a terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on July 11, 2007. A Notice of Abandonment was mailed on August 6, 2007.

With the present petition, Petitioner has alleged that the communication was not received, and has included a copy of the docket report.

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that a docketing specialist of the firm has asserted that the mailing was not received, that she has searched the mail and docket records, and she has included a copy of the latter.

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 the mailing was not received.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED AS MOOT**. The associated fee has not been charged to Petitioner's Deposit Account.

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[3]. 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 See MPEP § 710.02(e).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Shyh-Shiaw Kuo	: DECISION ON REQUEST FOR
Patent Number	: 7627481	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,331	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1049** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/110,352	04/19/2005	Victor L. Chun	3007867-0017

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

DATE MAILED: December 5, 2006

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

This is in response to the petition under 37 CFR 1.138(d) filed on November 7, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

MAIL

AUG 05 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: David S.H. Lee)
Application No. 11/110,364)
Filed: April 19, 2005)
For: **DATA COMMUNICATIONS APPARATUS FOR CABLE NETWORK**)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND MPEP §708.02 (I): MANUFACTURE

This is a decision on the petition, filed July 5, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(I): Manufacture, to make the above-identified application special.

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. §1.17(I)(2) 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 affidavit 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 petition meets the requirements set out above. Accordingly, the petition is **GRANTED.**

Doris To
Special Program Examiner
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

MAILED
JUL 12 2010
OFFICE OF PETITIONS

In re Patent No. 7,622,306	:	DECISION ON REQUEST FOR
Maher Albitar et al.	:	RECONSIDERATION OF
Issue Date: November 24, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 11/110,374	:	NOTICE OF INTENT TO ISSUE
Filed: April 20, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No. UTXC:831US:		

This is a decision on the petition filed on January 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-four (524) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **two hundred seventy-five (275) days**.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141,

145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

Patentees failed to account for the filing of the notice of appeal on November 3, 2008. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 249 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, November 3, 2008, and ending on the day the notice of allowance was mailed, July 9, 2009. Accordingly, the patent term adjustment is 275 days (247 days of A delay + 334 days of B delay - 0 days of overlap - 306 days of applicant delay).

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred seventy-five (275) days**.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,622,306 B2

DATED : Nov. 24, 2009

INVENTOR(S) : Albitar 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 (277) days

Delete the phrase "by 277 days" and insert – by 275 days--

11/110392

OIPE IAP18
SEP 11 2009
PATENT & TRADEMARK OFFICE

TRANSMITTAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Black, Gerald R.

Group Art Unit: 2132

U.S. Patent No. 7,281,135

Examiner: Thomas R. Peeso

Filed: April 20, 2005

For: Pen-Based Transponder Identity Verification System

TRANSMITTAL

Assistant Commissioner for Patents
Alexandria, VA 22313-1450

You will find enclosed with this transmittal:

1. A Statement for Certificate of Correction - 1 sheet.
2. A cover sheet of U.S. Patent No. 7,281,135
3. A "Recordation Form Cover Sheet" - 1 sheet
4. A Patent Assignment - 1 sheet
5. A personal check for $230 (petition fee plus certificate fee).
6. A self-addressed stamped postcard.

September 8th, 2009

Respectfully submitted,

Gerald R. Black
Registration Number 29,514
30320 Southfield Road, Suite 67A
Southfield, Michigan 48076
248.644.1014 phone
413.521.4703 fax

09/14/2009 SSANDARA 00000001 7281135
01 FC:1464 130.00 OP

CERTIFICATE OF MAILING (37 CFR 1.8a)

September 8th, 2009

I hereby certify that this correspondence is being deposited on the date indicated with the United States Postal Service with sufficient postage as First Class Mail addressed to the Mail Stop Post Issue, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Gerald R. Black

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Black, Gerald R.

Group Art Unit: 2132

U.S. Patent No. 7,281,135

Examiner: Thomas R. Peeso

Filed: April 20, 2005

For: Pen-Based Transponder Identity Verification System

37 CFR §1.323 Certificate Of Correction Of Applicant's Mistake

Assistant Commissioner for Patents
Alexandria, VA 22313-1450

STATEMENT

1. I am the inventor and the attorney-of-record for the subject Patent.

2. It has recently come to our attention that on the cover sheet of the subject U.S. Patent, the assignee is listed as PGN-ONE Inc.

3. Rights to this patent portfolio had long ago been assigned to PEN-ONE Inc. (see enclosure), and Applicant's handwriting on the "PART B - FEE(S) TRANSMITTAL" was illegible, and this is a typographical error.

4. Papers are being submitted today, copy enclosed, with the Assignment Division of the U.S. Patent Office.

5. In view of the foregoing remarks, it is respectfully requested that a "Certificate of Correction" be issued.

September 8th, 2009

Respectfully submitted,

09/14/2009 SSANDARA 00000001 7281135
02 FC:1811 100.00 OP

Gerald R. Black
Registration Number 29,514
30320 Southfield Road, Suite 67A
Southfield, Michigan 48076
248.644.1014 phone
413.521.4703 fax

US007281135B2

(12) **United States Patent**
Black

(10) **Patent No.: US 7,281,135 B2**
(45) **Date of Patent: Oct. 9, 2007**

(54) **PEN-BASED TRANSPONDER IDENTITY VERIFICATION SYSTEM**

(75) Inventor: **Gerald R. Black**, Southfield, MI (US)

(73) Assignee: **PGN-ONE Inc.**, Southfield, MI (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 223 days.

(21) Appl. No.: **11/110,392**

(22) Filed: **Apr. 20, 2005**

(65) **Prior Publication Data**

US 2005/0261972 A1 Nov. 24, 2005

Related U.S. Application Data

(62) Division of application No. 09/865,638, filed on May 25, 2001, now Pat. No. 6,925,565.

(51) **Int. Cl.**
G06F 9/00 (2006.01)

(52) **U.S. Cl.** **713/186**; 713/176; 713/180; 713/182; 713/193

(58) **Field of Classification Search** 713/186, 713/176, 180, 182, 193
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,513,437	A	4/1985	Chainer et al.	
5,103,486	A	4/1992	Grippi	
5,247,137	A	9/1993	Epperson	
5,263,742	A	11/1993	Koch	
5,353,350	A *	10/1994	Unsworth et al.	713/194
5,559,895	A	9/1996	Lee et al.	
5,619,025	A	4/1997	Hickman et al.	
5,623,552	A	4/1997	Lane	
5,652,412	A	7/1997	Lazzouni et al.	
5,677,955	A *	10/1997	Doggett et al.	705/76
5,680,470	A	10/1997	Moussa et al.	
5,682,247	A	10/1997	Webster et al.	
5,706,349	A	1/1998	Aditham et al.	
5,709,746	A	1/1998	Ballard	

(Continued)

OTHER PUBLICATIONS

U.S. Appl. No. 97/08090, filed Nov. 20, 1997, Sayag.

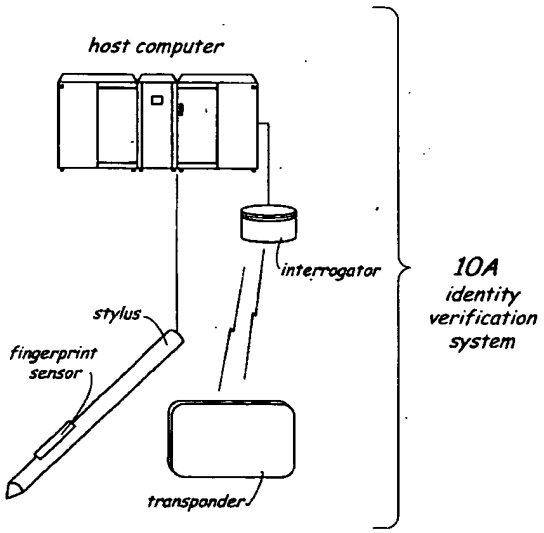
(Continued)

Primary Examiner—Thomas R. Peeso
(74) *Attorney, Agent, or Firm*—Gerald R. Black

(57) **ABSTRACT**

This pen-based, identity verification uses biometric technology. For use in commercial transactions at a point-of-sate terminal, a customer registers advising the system of a customer account that is to be used for payment. The customer also submits a digital signature for reference purposes—a fingerprint. The customer is then issued a transponder that links the customer to the customer account and to the reference digital signature. When the customer is at the point-of-sale terminal for making payment, an interrogator disposed at the point-of-sale terminal transmits a radio signal requesting identity verification. The transponder submits data to the interrogator. Thereafter, when the customer uses a stylus to submit written data (a signature), a sensor in the stylus makes incidental capture of biometric data that enables the interrogator to confirm customer identity. Similarly, at a security checkpoint in an office building, the system is utilized when a written log is used to track access and egress to the building. Again, a transponder is issued to a party having authorized access after the party has registered and submitted a digital signature for reference purposes.

32 Claims, 15 Drawing Sheets



file copy

OIPE SEP 11 2009 PATENT & TRADEMARK OFFICE

Form PTO-1595 (Rev. 03-09)
OMB No. 0651-0027 (exp. 03/31/2009)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET
PATENTS ONLY

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)

Gerald R. Black (assignor)

PEN-ONE Inc. (assignee)

Additional name(s) of conveying party(ies) attached? ☐ Yes ☐ No

2. Name and address of receiving party(ies)

Name: PEN-ONE Inc.

Internal Address:

Street Address: 30320 Southfield Road #67A

City: Southfield

State: Michigan

Country: US Zip: 48076

Additional name(s) & address(es) attached? ☐ Yes ☐ No

3. Nature of conveyance/Execution Date(s):

Execution Date(s)

☒ Assignment ☐ Merger

☐ Security Agreement ☐ Change of Name

☐ Joint Research Agreement

☐ Government Interest Assignment

☐ Executive Order 9424, Confirmatory License

☐ Other

4. Application or patent number(s): ☐ This document is being filed together with a new application.

A. Patent Application No.(s)

11/087178; 11/090814; 11/102032; 11/124016; 11/213282; and D/292446

B. Patent No.(s)

6307956; 6539101; 6925565; 6970583; 7047419; 7082213; 7281135; 7363505; D558166; D564479; and D585891

Additional numbers attached? ☐ Yes ☐ No

5. Name and address to whom correspondence concerning document should be mailed:

Name: Gerald R. Black

Internal Address:

Street Address: 30320 Southfield Road #67A

City: Southfield

State: Michigan Zip: 48076

Phone Number: 248.644.1014

Fax Number: 413.521.4703

Email Address: geraldblack@comcast.net

6. Total number of applications and patents involved: 17

7. Total fee (37 CFR 1.21(h) & 3.41) $ 680.00

☐ Authorized to be charged to deposit account

☒ Enclosed

☐ None required (government interest not affecting title)

8. Payment Information

Deposit Account Number

Authorized User Name

9. Signature:

Signature

September 8, 2009
Date

Gerald R. Black
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 3

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O.Box 1450, Alexandria, V.A. 22313-1450

ASSIGNMENT

WHEREAS, I, Gerald R. Black, residing at 30320 Southfield Road #67A; Southfield, Michigan 48076, am partner and legal counsel of the BD Group, have invented certain new and useful devices, systems and methods involving the use of biometric sensors in pen-based applications, as set forth in U.S. Patent 6,307,956; U.S. Patent 6,539,101; U.S. Patent 6,925,565; U.S. Patent 6,970,583; U.S. Patent 7,047,419; U.S. Patent 7,082,213; U.S. Patent 7,281,135; U.S. Patent 7,363,505; U.S. Patent Application 11/087,178; U.S. Patent Application 11/090,814; U.S. Patent Application 11/102,032; U.S. Patent Application 11/124,016; U.S. Patent Application 11/213,282; U.S. Design 558,166; U.S. Design 564,479; U.S. Design 585,891; and U.S. Design Application 292,446, continuations, divisionals, extensions, and re-issues thereof and any and all foreign applications and equivalents filed in my name involving the use of biometric sensors in pen-based applications, and any Letters Patents that may issue therefrom (the INTELLECTUAL PROPERTY); and

WHEREAS, PEN-ONE Inc., a Michigan C Corporation (PEN-ONE), is desirous of acquiring the entire right, title, and interest to the INTELLECTUAL PROPERTY.

NOW, THEREFORE, be it known by all whom it may concern, that for good and valuable consideration, the receipt of which is hereby acknowledged, I, by these presents do assign, sell, assign, and set over unto PEN-ONE, its legal representatives and assigns, the full and exclusive right, title and interest in and to the INTELLECTUAL PROPERTY for the United States and all foreign countries, including the right to file foreign patent applications and the right to claim the priority date of the U.S. Provisional and Patent Applications and any legal equivalents thereof, and any and all Patents in the U.S. and all foreign countries which may be granted thereon, and any and all divisionals, continuations, extensions, and re-issues thereof, the same to be held and enjoyed by PEN-ONE or their successor, as fully and entirely as the same would be held by me had this Assignment not been made.

AND, I hereby authorize and request the Commissioner of Patents in each respective country to issue the Letters Patent to PEN-ONE in accordance with this Agreement.

This ASSIGNMENT is effective as of March 19, 2003.

Gerald R. Black

Gerald R. Black

September 8, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT & T LEGAL DEPARTMENT - WS
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT & T Way
BEDMINSTER, NJ 07921

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Simon D. Byers	:	
Application No. 11/110,393	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 2000-0609 CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2009, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JEFFREY M. WEINICK
WOLF & SAMPSON, PC
ONE BOLAND DRIVE
WEST ORANGE, NJ 07052

UNITED STATES PATENT AND TRADEMARK OFFICE

0 9 FEB 2009

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

Edwards Lifesciences Corporation
Legal Department
One Edwards Way
Irvine CA 92614

In re Application of	:	
Alain Cribier	:	
Application No.: 11/110,402	:	
Filed: April 20, 2005	:	DECISION ON PETITION
Attorney Docket No.: PVI-5791CON3	:	
For: VALVE PROSTHESIS FOR	:	
IMPLANTATION IN BODY CHANNELS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) filed February 21, 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 set forth in the application data sheet filed concurrently with the instant petition.

The petition is GRANTED.

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 application 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 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 application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 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 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 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 benefit claim to the prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
PCT Legal Administration

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

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

Mail Date: 05/20/2010

Applicant	: Jonathan Kwok	: DECISION ON REQUEST FOR
Patent Number	: 7630763	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/110,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

In re Application of :
Callentine, et al. : DECISION ON PETITION
Application No. 11/110,427 :
Filed: April 20, 2005 :
Docket No.: 83450 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 3, 2006.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed October 5, 2005. Notice of Abandonment was mailed September 28, 2006.

Petitioners assert that a response to the non-final Office action and a petition for extension of time were timely submitted on April 5, 2006 and have submitted as proof of USPTO receipt of the reply a return postcard dated stamped April 5, 2006 as well as a copy of the reply bearing a certificate of mailing in accordance with 37 CFR 1.8.

The original amendment submitted April 5, 2006 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/21/2010

Applicant	: Paul James Taysom	: DECISION ON REQUEST FOR
Patent Number	: 7647359	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/110,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **368** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Woo Sig Min :
Application No. 11/110,488 : ON APPLICATION FOR
Filed: April 20, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. **21519US01_2380USAP167148**

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705, filed April 6, 2010, and in supplement on April 12, 2010[1]. The petition is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand two hundred and fifteen (1,215) days, not one thousand twenty (1,020) 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

[1] The supplemental petition filed April 12, 2010, was not considered on its merits because the supplement was untimely as the issue fee was paid on April 6, 2010. See 37 CFR 1.705(b).

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[2].

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

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

---

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

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

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 07/08/2010

Applicant	: Dana Lynn Ramshak	: DECISION ON REQUEST FOR
Patent Number	: 7641641	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/110,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **766** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Uytdehaag et al.	:	
Application No. 11/110,517	:	DECISION ON PETITION
Filed: April 20, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2578-6827US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a

benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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

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

By mail: Mail Stop 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 Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Uytdehaag et al.
Application No. 11/110,517
Filed: April 20, 2005
Attorney Docket No. 2578-6827US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

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

The petition is **GRANTED**.

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

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

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

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

course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. 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 1648 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/110,517	04/20/2005	1648	1600	2578-6827US	32	3

CONFIRMATION NO. 4563

CORRECTED FILING RECEIPT

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

OC000000030015716

Date Mailed: 05/19/2008

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

Applicant(s)

Alphonsus G.C.M. UytdeHaag, Vleuten, NETHERLANDS;
Govert Johan Schouten, Leiderdorp, NETHERLANDS;
Jaap Goudsmit, Amsterdam, NETHERLANDS;

Power of Attorney: The patent practitioners associated with Customer Number 24247

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP03/50806 11/07/2003
and is a CIP of 09/722,867 11/27/2000 ABN
which is a CIP of 09/449,854 11/26/1999 PAT 7,192,759

Foreign Applications

NETHERLANDS PCT/NL02/00718 11/08/2002
EUROPEAN PATENT OFFICE (EPO) PCT/EP03/50129 04/28/2003

If Required, Foreign Filing License Granted: 05/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/110,517**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Vaccines against West Nile Virus

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 AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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BLOOMFIELD HILLS MI 48304-0610

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OFFICE OF PETITIONS

In re Application of	:	
MILLER, et al.	:	
Application No. 11/110,519	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 65937-0062	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 18, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes an affidavit and driver's license of inventor Michael E. Miller, 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 3739 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Regis Grasser et al. :
Application No. 11/110,557 :
Filed: April 19, 2005 :
Attorney Docket No. TI-63033 :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 January 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 Notice of Appeal and fee of $510, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly the Notice of Appeal is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2877for processing of the Notice of Appeal and for appropriate action by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/07/2010

Applicant	: Regis Grasser	: DECISION ON REQUEST FOR
Patent Number	: 7630085	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/110,557	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **946** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

In re Application of :
Steven L. Trulaske, Sr., et al :
Application No. 11/110,558 : DECISION ON PETITION
Filed: April 20, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TRUE91760US :

This is a decision on the petition, filed August 6, 2007, 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 April 19, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 10, 2008 accompanies this decision on petition.

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

This application is currently before Technology Center Art Unit 3635 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/110,558	04/20/2005	Steven L. Trulaske SR.	TRUE 9170US

CONFIRMATION NO. 3170

1688
POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

Date Mailed: 09/28/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/10/2008.

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

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ILLINOIS TOOL WORKS INC.
3600 WEST LAKE AVENUE
PATENT DEPARTMENT
GLENVIEW IL 60025

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NOV 0 2 2007

OFFICE OF PETITIONS

In re Patent No. 7,159,946	:	
Issue Date: January 9, 2007	:	
Application No. 11/110,559	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 14829	:	

This matter has been referred to this office in view of a facsimile transmission filed on March 9, 2007, requesting issuance of a duplicate copy of the above patent.

The relief sought by the request of March 9, 2007 cannot be granted for the reasons stated below.

The request for issuance of a duplicate copy of the patent is signed by Lena Khayou, who is not one of the parties identified in 37 CFR 1.33(b) who may sign papers in a matter before the U.S. Patent and Trademark Office. In this regard, Ms. Khayou is not: (1) the named inventor(s), or (2) the assignee of the entire interest, or (3) a practitioner registered to practice before the USPTO. Therefore, Ms. Khayou has no standing to file such a communication. Accordingly, the USPTO will not further act on the facsimile transmission of March 9, 2007.

A request for issuance of a duplicate Letters Patent due to non-receipt is more appropriately a petition under 37 CFR 1.181(a) (no fee). Any such petition must provide a showing of non-receipt of the original Letters Patent. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

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

Note MPEP 711.03(c) for a discussion of non-receipt of an Office communication

If the required evidence to establish non-receipt of the original Letters Patent cannot be produced or petitioner simply does not wish to provide the required showing, petitioner may wish to

consider filing a petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent and pay the required fee of $400.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/23/2010

Applicant	: Atsuhiro Kumagai	: DECISION ON REQUEST FOR
Patent Number	: 7612809	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,573	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2005	: 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

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

AUG 30 2005

Docket Clerk
Scheef & Stone, L.L.P.
Suite 1400
5956 Sherry Lane
Dallas, Texas 75225

In re Application of:	:	**DECISION ON PETITION**
John F. Payne	:	**TO MAKE SPECIAL**
Serial No. 11/110,579	:	**(COUNTER TERRORISM)**
Filed: April 19, 2005	:	
For: FENCE SYSTEM		

This is a decision on the petition filed July 27, 2005 and re-filed with corrected dates of execution and notary on July 29, 2005 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

The petition states that the "invention will contribute to countering terrorism by providing a fence system which is more effective than conventional fence systems for providing high security for a number of reasons". The reasons applicant sets forth do not describe how the invention will contribute to countering terrorism. This statement is a general conclusion and does not satisfy the requirement of explaining specifically how the invention contributes to countering terrorism. The petition fails to set forth what makes the fence not susceptible to the significant drawback of a convention chain link fence, how and why there are no height restrictions, what the multiple stronger materials are, what makes the fence crash resistant and how the fence may be readily erected or retrofitted onto previous fences.

MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples,

these examples all clearly act to directly and primarily counter terrorism. Thus, the tie to countering terrorism as argued by the applicant is not seen as being sufficient to accord special status to this application.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

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

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

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

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

SNM/rjc: 8/26/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

OCT 13 2005

TECHNOLOGY CENTER 3600

Docket Clerk
Scheef & Stone, L.L.P.
Suite 1400
5956 Sherry Lane
Dallas, Texas 75225

In re Application of:
John F. Payne
Serial No. 11/110,579
Filed: April 19, 2005
For: FENCE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is a decision on the renewed petition filed September 23, 2005 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

The requirement for granting special status under this section is a statement explaining how the invention contributes to countering terrorism. A fee is no longer required for this petition.

The petition states that the "invention will contribute to countering terrorism by providing a fence system which is more effective than conventional fence systems for providing high security for a number of reasons".

Paragraphs 4-7 of applicant John Payne's declaration set forth what makes the fence not susceptible to the significant drawback of a conventional chain link fence, what the multiple stronger materials are, what makes the fence crash resistant and how the fence may be readily erected or retrofitted onto previous fences.

These statements adequately explain how the invention contributes to countering terrorism. The requirement for special status under MPEP § 708.02 XI has been met, the petition is **GRANTED**.

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

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

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

RAR/rjc 09/29/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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www.uspto.gov

Woodard, Emhardt, Moriarty, McNett & Henry LLP
Roche Diagnostics
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Mail Date: 04/20/2010

Applicant	: Steven N. Roe	: DECISION ON REQUEST FOR
Patent Number	: 7645241	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COLE LLP
P.O. Box 2168
MENLO PARK CA 94026

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MAY 19 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Barry Kirkorian
Application No. 11/110,600
Filed: April 19, 2005
Attorney Docket No. 58689-8006.US01

This is a decision on the petition filed April 25, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned for failure to timely pay the issue fee on or before April 24, 2008. Accordingly, a Notice of Abandonment was mailed April 29, 2008, after the filing of the instant petition.

The issue fee in the amount of $1440.00, petition fee in the amount of $1540.00 and publication fee in the amount of $300 have been charged to petitioner's deposit account no. 50-2207 as authorized. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606

COPY MAILED

OCT 13 2009

OFFICE OF PETITIONS

In re Application of Manion, et al. Application No. 11/110,622 Filed: April 20, 2005 Attorney Docket No. 30835/308823	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 28, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 28, 2009. Accordingly, the date of abandonment of this application is July 29, 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 $1,510.00, and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Todd R. Manion	: DECISION ON REQUEST FOR
Patent Number	: 7620902	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **31** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/18/2010

Applicant : Todd R. Manion
Patent Number : 7620902
Issue Date : 11/17/2009
Application No : 11/110,622
Filed : 04/20/2005

: 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 **135** 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
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MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: David P. Adams	: DECISION ON REQUEST FOR
Patent Number	: 7571537	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1053** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SENNIGER POWERS
ONE METROPOLITAN SQUARE
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ST LOUIS MO 63102

COPY MAILED

JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Wozencroft et al.	:	DECISION REFUSING STATUS
Application No.11/110,646	:	UNDER 37 CFR 1.47(a)
Filed: April 20, 2005	:	
Attorney Docket No. FIL 1868	:	
(GHS/P504566US)	:	
Title: Prosthesis	:	

This is in response to the petition under 37 CFR § 1.47(a), filed November 14, 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 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 petition under 37 CFR. § 1.47(a) is **DISMISSED**.

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.

Petitioner has failed to establish (1).

The statements contained in the statement of facts by a person with first hand knowledge has not been signed. Accordingly the Office cannot rely upon the facts contained within the statement to establish petitioner is entitled to rule 47 status. On renewed petition, a signed statement from a person with first hand knowledge should be provided. Further any document which would help in establishing that inventor O'Hara has effectively refused to execute the application papers should also be submitted.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ST LOUIS MO 63102

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APR 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Wozencroft et al.	:	
Application No. 11/110,646	:	DECISION
Filed: April 20, 2005	:	
Attorney Docket No. FIL 1868	:	
Title: Prosthesis	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 27, 2006.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **Dismissed As 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 contains an alteration to the citizenship of inventor O'Hara .[1] The Office notes that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant.[2] Furthermore, the Office "will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration."[3]

Pursuant to Section 603 of the Manual of Examining Procedure:

> Deficiencies or inaccuracies in an oath or declaration may be corrected by a supplemental oath or declaration. The supplemental oath or declaration

[1] "Any interlineations, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[2] MPEP 605.04(a)(I).

[3] Id.

> must (1) identify the entire inventive entity, and (2) be signed by all the inventors when the correction relates to all the inventors or applicants (37 CFR 1.42, 1.43, or 1.47), or by only those inventor(s) or applicants (37 CFR 1.42, 1.43, or 1.47) to whom the corrections relates. See 37 CFR 1.67(a). A deficiency or inaccuracy relating to information required by 37 CFR 1.63(c) may also be corrected with an application data sheet (37 CFR 1.67(a)(3)).

Applicant should submit a supplemental oath or declaration correcting inventor O'Hara's citizenship prior to the first action on the merits or at such time as the examiner requires the correction.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

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OFFICE OF PETITIONS

In re Application of
Chauhan et al.
Application No. 11/110,654
Filed: April 20, 2005
Attorney Docket No. 64476-00011USPX

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 4, 2007.

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 application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed April 24, 2007. The Notice of Allowance and Issue Fee Due and the Notice of Allowability set a three (3) month period for reply. Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 25, 2007. A Notice of Abandonment was mailed on August 17, 2007.

Petitioner asserts that the Notice of Allowability mailed April 24, 2007 was never received.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due was not in fact received. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office 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. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice of Allowance and Fee(s) Due may have been lost after receipt rather than a conclusion that the Notice of Allowance and Fee(s) Due was lost in the mail.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The Notice of Allowance and Fee(s) due was mailed on April 24, 2007 to the then correspondence address of record (Jenkens & Gilchrist). The docket records provided are presumably those from Gardere Wynne Sewell LLP. Thus, the Office is interested in the docket records where the Notice of Allowance was mailed.

Secondly, it is noted a change of address was submitted on or about June 4, 2007. Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment. Petitioner should provide a statement, if appropriate, that the change of address submitted did not have any effect on the failure to receive the Notice of Allowance and Fee(s) Due.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Chauhan et al.	:	
Application No. 11/110,654	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 64476-00011USPX	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 24, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 24, 2007. Accordingly, the date of abandonment of this application is July 25, 2007. A Notice of Abandonment was mailed on August 17, 2007. A petition under 37 CFR 1.181 was dismissed on September 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and the publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Although petitioner has indicated that the issue and publication fee were submitted via check, a review of the record shows the Office is not in receipt of the check to cover the fees. Pursuant to petitioner's request, deposit account no. 07-0153 will be charged the issue and publication fee.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

In re Application of	:	
YU, et al.	:	
Application No. 11/110,655	:	DECISION GRANTING PETITION
Filed: April 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 021653-011600US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 6, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 8, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of :
Fujiwara, et al. :
Application No. 11/110,667 : ON PETITION
Filed: April 21, 2005 :
Attorney Docket No. 03500.016874.1

This is a decision on the petition under 37 CFR 1.181 filed on September 14, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on March 17, 2006, after no response was received to the n0n-final Office action mailed December 16, 2005, which set a shortened statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 17, 2006. A Notice of Abandonment was mailed on July 18, 2006.

In the instant petition, petitioner maintains that the non-final Office action was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires 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. 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.

Although petitioner provide docket records to corroborate petitioner's allegation that the non-final Office action was not received, no statement attesting to the fact that the file jacket as maintained by petitioner was searched. A statement to this effect must accompany any renewed petition filed under 37 CFR 1.181(a).

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 for a verified small entity), and a

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statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of

Fujiwara, et al.

Application No. 11/110,667

Filed: April 21, 2005

Attorney Docket No. 03500.016874.1

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 10, 2007.

The renewed petition is **granted**.

This application was held abandoned on March 17, 2006, after no reply was received to the non-final Office action mailed December 16, 2005. The notice set forth a shortened statutory period for reply of three months from its mailing date. A petition to withdraw the holding of abandonment was first filed on September 14, 2006, and dismissed by a decision mailed November 27, 2006. The instant renewed petition was filed on January 10, 2007. Petitioner maintains that the notice of December 16, 2005, 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 2111 for resetting of the time period for responding to the non-final Office action.

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

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/110,670	04/20/2005	3643	1280	0218.01		23	1

CONFIRMATION NO. 2975

UPDATED FILING RECEIPT

OC000000016440139

25295
USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE, MD 20705-5131

Date Mailed: 07/01/2005

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

Applicant(s)

Juan A. Morales-Ramos, Greenville, MS;
Maria Guadalupe Rojas, Greenville, MS;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/110,670

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Use of calco oil blue V in bait formulations for marking and controlling subterranean termites

Preliminary Class

043

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls,

Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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NOV 28 2007

TECHNOLOGY CENTER 3600

Michael A. Bush
Roylance, Abrams, Berdo & Goodman, L.L.,P.
1300 19th Street, N.W.
Suite 600
Washington, DC 20036

In re Application of Yong-Sok Yang Application No. 11/110,676 Filed: April 21, 2005 For: MEDIA CASSETTE OF PRINTING APPARATUS	DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR §1.181

This is a decision on the petition under 37 CFR 1.181 filed September 14, 2007, requesting withdrawal of the finality of the Office Action mailed August 15, 2007.

The petition is **GRANTED**.

Petitioner alleges that the final rejection mailed August 15, 2007 is premature because the Office Action presented a new rejection of claim 15 which was neither necessitated by an amendment nor based on information submitted in an information disclosure statement.

MPEP §706.07(a) sets forth that the second or any subsequent action of the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c).

A review of the record reveals that in the First Office Action on the Merits mailed on March 27, 2007, claim 15 was rejected under 35 U.S.C. §102(e) as a being anticipated by both Kojima (US 2004/0253032) and Ishikuro (US 2004/0070138). In response to this Office Action, Petitioner placed claim 15 in independent form and perfected his claim to foreign priority to April 28, 2004. In the Final Office Action mailed August 15, 2007, claim 15 was rejected under 35 U.S.C. §102(e) as a being anticipated by Ishikuro (US 2004/0070138). The Final Office Action also rejected claim 15 under 35 U.S.C. §102(b) as anticipated by Todd (6,612,564). The rejection of claim 15 as anticipated by Todd (6,612,564) was not necessitated by any amendment to claim 15.

In view of the fact that the rejection of claim 15 as anticipated by Todd (6,612,564) was neither necessitated by an amendment, nor based on information submitted in an information disclosure statement, the finality of the Office Action mailed August 15, 2007 is improper and premature.

The finality of the Office Action mailed August 15, 2007, but not the Office action itself, is hereby vacated. The Office Action mailed August 15, 2007 is now considered to be non-final and the shortened statutory period for response continues to run THREE (3) MONTHS from the August 15, 2007 mail date of the Office Action.

Any questions regarding this letter should be directed to Patrick Mackey at (571) 272-6916.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

Pm/snm: 10/24/07

SM

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE N.W., SUITE 400
WASHINGTON, DC 20036

In re Application of	:	
Hiroyoshi Tomita	:	
Application No. 11/110,685	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. 108390-00097	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 18, 2006, to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for a decision until after the above-identified application issued as U.S. Patent No. 7,109,775. Any inconvenience caused petitioners is regretted.

The Request for Continued Examination (RCE) deposited on September 18, 2006, is considered an improper submission under 37 CFR 1.114 and will not be further processed. The RCE filing fee is being refunded to counsel's deposit account.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

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

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

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

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Asano, et al. :
Application No. 11/110,695 :
Filed: April 21, 2005 :
Attorney Docket No. Q87172 :

DECISION GRANTING PETITION

This is a decision on the petition filed June 24, 2005, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed June 9, 2005.

On April 21, 2005, the application was deposited.

On June 9, 2005, the Office of Initial Patent Examination mailed the Notice stating that no filing date had been accorded the application because drawings were not found with the original disclosure, but appeared to be required to understand the invention claimed.. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on June 24, 2005. Petitioner appears to concede that the drawings did not accompany the original disclosure filed April 21, 2005, but maintains that the application incorporated by reference the entire disclosure of a previously filed application that contained the drawings.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. 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). A review of the record reveals that Claims 20 and 27 are method claims. Therefore, the present application is deemed to be an application that does not require drawings for an understanding of the invention claimed. Accordingly, the application, as filed, was entitled to the filing date of April 21, 2005.

The application is being forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with a filing date of April 21, 2005. The preliminary amendment filed June 24, 2005, requesting entry of the drawings will be processed once the application is forwarded to Technology Center 1700, GAU 1745.

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

AUG 29 2007

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

BRUCE E. KRAMER
SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
UENO	:	Decision on Petition
Serial No.: 11/110,698	:	
Filed : 21 April 2005	:	
Attorney Docket No.: Q87649	:	

This letter is in response to the petition filed 29 June 2007 requesting withdrawal of finality of the Office action and issuance of a new Office action is. The delay in acting upon this petition is regretted.

BACKGROUND AND DISCUSSION

A review of the file record shows that claims 1-7, 10-11, 13-20, 23, 24 and 26-30 were subject to non-final rejection on 11 October 2006.

On 21 February 2007, applicants responded to the non-final action including an amendment that cancelled claims 1-7, 10-11, 13, 27 and 28. The amendment used underlines and strike through to show changes to claims 29-30. The amendment left claims 14-20, 23-24, 26, 29 and 30 pending.

On 27 April 2007, the Examiner issued a final office action on claims 29-30. The Office action did not address the amendments made to claims 29-30 or offer reasons why the rejection under 35 USC 103(a) as being unpatentable over US Patent No 5,627,208 applied to the amended claims. Claim 29 had not been rejected in the non-final Office action. Moreover, the Office action dated 27 April 2007 did not address the other pending claims 14-20, 23-24 and 26, which had been examined in the non-final Office action.

This petition and the file history have been considered carefully. The petition is correct in that the Office action should not have been made final because claims 14-20, 23-24 and 26 were not

addressed and because the amendment made to claims 29 and 30 were not addressed and because claim 29 had not been rejected in the non-final Office action.

DECISION

The request for withdrawal of finality of the Office action and issuance of a new Office action is **GRANTED**.

The application will be forwarded to the examiner to prepare an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist/Program Manager 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.

Bruce Kisliuk
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/110,742	04/21/2005	Russell John Haines	271196US2CRL	3477

7590 03/07/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
RIVAS, SALVADOR E

ART UNIT	PAPER NUMBER
2619	

NOTIFICATION DATE	DELIVERY MODE
03/07/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Lyon K.F. Wong	: DECISION ON REQUEST FOR
Patent Number	: 7614016	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **691** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET, SUITE 3400
CHICAGO, IL 60661

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of
Peter BENDA, et *al.*
Application No. 11/110,781
Filed: April 18, 2005
Attorney Docket No. **13149US02**

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 June 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 18, 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]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. Joseph M. Barich 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. Barich desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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

This application is being referred to Technology Center AU 3624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Akinobu Yoshimura	:	
Application No. 11/110,791	:	DECISION GRANTING PETITION
Filed: April 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123572	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Takenori Ohshita	: DECISION ON REQUEST FOR
Patent Number	: 7585227	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1175** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 19 2007

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

In re Application of	:
Catherine Lavazec al	:
Serial No.: 11/110,851	: PETITION DECISION
Filed: April 21, 2005	:
Attorney Docket No.: 268127US0	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed August 11, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

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

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

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TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: KANO
Application No. 11/110,855
Filed: April 21, 2005
For: SYSTEM AND METHOD FOR MANAGING DISK SPACE IN A THIN-PROVISIONED STORAGE SUBSYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 30 November 2005 under 37 C.F.R. §1.102(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. §1.102(d) states in relevant part:

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

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

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

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

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

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

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

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

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

ds

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LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO, IL 60654-4746

Mail Date: 04/21/2010

Applicant	: Daniel Dryden	: DECISION ON REQUEST FOR
Patent Number	: 7604929	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/110,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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OFFICE OF PETITIONS

In re Application of	:	
Mark A. Gallop, et al.	:	
Application No. 11/110,909	:	DECISION GRANTING PETITION
Filed: April 6, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 34523/US/10	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 8, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 8, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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

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WENDEROTH LIND & PONACK LLP
2033 K STREET NW
SUITE 800
WASHINGTON, DC 20006-1021

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OFFICE OF PETITIONS

In re Application of	:
Shinya Kadono et al	:
Application No. 11/110,922	: DECISION GRANTING PETITION
Filed: April 21, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2005_0707	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/31/07

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 7104291

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

[signature] 3771

SPE Art Unit

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Rodhe, et al.	:	
Application No. 11/111,009	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. SYNERGY 3.0-019	:	

This is a decision on the "Petition under 37 CFR 1.182" filed September 16, 2006.

The petition is **granted**.

The order of the names of the inventors has been changed to the following:

1. Ulrich Rohde
2. Ajay Poddar
3. Reimund Rebel

The fee for the instant petition is $400.00. Accordingly, deposit account 12-1095 will be charged an additional $270.00.

The application file 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

Enclosure: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/111,009	04/21/2005	2817	1880	SYNERGY 3.0-019	9	25	4

CONFIRMATION NO. 3029

CORRECTED FILING RECEIPT

OC000000021712080

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Date Mailed: 12/22/2006

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

Applicant(s)

Ulrich L. Rohde, Upper Saddle River, NJ;
Ajay Kumar Poddar, Fairlawn, NJ;
Reimund Rebel, Ringwood, NJ;

Assignment For Published Patent Application

Synergy Microwave Corporation, Paterson, NJ

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/564,173 04/21/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/20/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/111,009

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

WIDEBAND VOLTAGE CONTROLLED OSCILLATOR EMPLOYING EVANESCENT MODE COUPLED-RESONATORS

Preliminary Class

331

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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RICHARD M. GOLDBERG
25 EAST SALEM STREET
SUITE 419
HACKENSACK NJ 07601

COPY MAILED

SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Hisafumi Ikada, et al.	:	
Application No. 11/111,022	:	NOTICE
Filed: April 21, 2005	:	
Attorney Docket No. 441/1/013 DIV	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Irvin Dingle
Petitions Examiner

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MAR 28 2008

OFFICE OF PETITIONS

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER CO 80301

In re Application of :
Hill, et al. : DECISION ON PETITION
Application No. 11/111,025 :
Filed: April 21, 2005 :
For: 421372 :

This is a decision on the petition to expunge under 37 CFR 1.59(b) filed October 31, 2007.

The petition is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Petitioners request the expungement of a portion of the above-identified application because it was unintentionally submitted and the failure to expunge these papers would cause irreparable harm to the party who submitted the information and the party in interest on whose behalf the information was submitted. Petitioners further assert that information has not otherwise been made public.

In accordance with 37 CFR 1.59(b), "[a]n applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided."

Petitioners have established to the satisfaction of the Director that expungement of the information at issue is proper.

Since the application is an Image File Wrapper application and the information sought to be expunged does not pertain to national security issues, the three page document will not be removed. Instead, the Office will close the three page document such that it cannot be accessed. *See, Reminder of the Proper Procedure for Filing Confidential Information Pursuant to MPEP 724.03*, 1282 OG 107, (May 18, 2004).

Procedure for Filing Confidential Information Pursuant to MPEP 724.03, 1282 OG 107, (May 18, 2004).

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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MAR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Bryon J. Tarbet	:	
Application No. 11/111,038	:	DECISION ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. 16075.1.1	:	

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

The petition is **GRANTED**.

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 conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment and affidavits; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed August 7, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on February 12, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account.

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

This application is being referred to Technology Center AU 1793 for appropriate action by the Examiner in the normal course of business on the reply received February 12, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

Applicant	: Frederic Bancel	: DECISION ON REQUEST FOR
Patent Number	: 7584386	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,046	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 05/18/2010

Applicant : Frederic Bancel
Patent Number : 7584386
Issue Date : 09/01/2009
Application No : 11/111,046
Filed : 04/21/2005

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

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

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

The patent term adjustment has been determined to be **850** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/111,050		Ravinder Chandhok	040464

CONFIRMATION NO. 5384

WITHDRAWAL NOTICE

23696
QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Date Mailed: 04/18/2006

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice of Abandonment mailed on 02/01/2006 was sent in error and is hereby withdrawn. A Filing Receipt is enclosed. The Office regrets any inconvenience the error may have caused.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 3 - OFFICE COPY

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

COPY MAILED
AUG 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Ravinder Chandhok et al	:	
Application No. 11/111,050	:	ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 040464	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 23, 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 24, 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

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Hoffman Warnick, LLC
75 State Street
14th Floor
Albany, NY 12207

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APR 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Tara J. Valentin	:	
Application No. 11/111,063	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. CAVO-0017-CIP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 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 proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 1, 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).

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.

As to item 1, the amendment filed on March 4, 2009, does not *prima facie* place the application in condition for allowance, therefore the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of an advisory action.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

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

The centralized facsimile number is **(571) 273-8300.**

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

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Courtesy copy of advisory action

cc: Darrell L. Pogue
1881 Western Avenue, Suite 180
Albany, NY 12203

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	11/111,063	VALENTIN, TARA J.	
	Examiner	Art Unit	
	Gloria Hale	3765	

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

THE REPLY FILED 04 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-30*.
   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: _____.

/Gloria Hale/
Primary Examiner, Art Unit 3765

Continuation of 3. NOTE: The newly amended claim language is disclosed in the cited prior art..

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OFFICE OF PETITIONS

Keohane & D'Alessandro
1881 Western Avenue
Suite 180
Albany, NY 12203

In re Application of	:	
Tara J. Valentin	:	
Application No. 11/111,063	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. CAVO-0017-CIP	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 1, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is October 2, 2008. A Notice of Abandonment was mailed on January 27, 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 RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The petition decision mailed April 24, 2009, dismissed the petition filed March 4, 2009 for failure to provide a proper reply. The renewed petition includes a proper reply.

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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3765 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Sujata Das	: DECISION ON REQUEST FOR
Patent Number	: 7581106	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,088	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: 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.

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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER, NY 14604-2404

Mail Date: 08/04/2010

Applicant	: Raymond E. Vankouwenberg	: DECISION ON REQUEST FOR
Patent Number	: 7640622	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/111,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1240** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

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MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Susan M. Abernathhy et al.	:	
Application No. 11/111,120	:	DECISION ON PETITION
Filed: April 20, 2005	:	PURSUANT TO
Attorney Docket No.: G-0152	:	37 C.F.R. § 1.137(B)
Title: PROCESS TO ENHANCE	:	
OXIDATION STABILITY OF BASE	:	
OILS BY ANALYSIS OF OLEFINS	:	
USING ^{1}H NMR	:	

This is a decision on the petition filed September 17, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed March 3, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on June 4, 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, a Request for Continued Examination (RCE) along with the associated fee, an amendment, and 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.[1]

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 submission under 37 C.F.R. § 1.114 - the amendment received on September 17, 2008 - can be processed.

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 Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: CHEVRON CORPORATION
6001 BOLLINGER CANYON ROAD
SAN RAMON CA 94583

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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
PASSMORE et al. :
Application No. 11/111,121 : ON APPLICATION FOR
Filed: April 20, 2005 : PATENT TERM ADJUSTMENT
Docket No. NANOP018/NMX-101.1 NP :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed December 16, 2008, which is properly being treated under the provisions of 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be increased by the number of days that the Office will take in excess of three years of the actual filing date of the instant application to issue the patent. Applicants request this correction in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

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 three 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 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, 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 finance records reveals that applicants submitted a fee of $400.00 for the filing of the present application for patent term adjustment. However, the current fee is $200.00 as set forth in 37 CFR 1.18(e). Accordingly, the Office will refund the overpayment of $200.00 to the Deposit Account. No additional fees are required.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Frederick H. Carter	:	
Application No. 11/111,130	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO WITHDRAW
Attorney Docket No. 021756-103400US	:	FROM RECORD
	:	

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 1, 2010.

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

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the assignee of the patent application on April 5, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE**
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

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JAMES D IVEY
3025 Totterdell Street
OAKLAND CA 94611-1742

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of

Eric Wogsberg :

Application No. 11/111,158

: DECISION ON PETITION

Filed: April 20, 2005

:

Attorney Docket No. P-2307D1

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 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 restriction/election requirement mailed January 5, 2009, 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 February 6, 2009. A Notice of Abandonment was mailed June 9, 2009.

The election filed August 20, 2009, is noted.

The application is being forwarded to Technology Center 2400, GAU 2416 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

4-21-05

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION: Hershey Lerner et al.

Serial No.: N/A Examiner: N/A 11/111164

Filed: Herewith Group Art Unit: N/A 1733 Aftergut

Docket: 16-008

Title: FLUID FILLED UNIT FORMATION MACHINE AND PROCESS

Watts, Hoffmann, Fisher
& Heinke Co., L.P.A.
Suite 1750, 1100 Superior Ave.
PO Box 99839
Cleveland, Ohio 44199-0839

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE SPECIAL

Dear Sir:

Applicant respectfully requests a petition to make special on the ground that a principal inventor, Hershey Lerner, who is also president and chairman of the board of the assignee is over 65 years of age. A declaration of Hershey Lerner verifying his age is attached.

According to 708.02 of the MPEP, we have met the requirements for special status based on age and no petition fee is required. If we are in error, please charge any fee due to our deposit account no. 23-0630.

Respectfully submitted,

Date 4/8/03

Thomas E. Fisher
Reg. No. 18,271

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

JUL 2 7 200

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

Mail Date: 04/21/2010

Applicant	: Richard McDaniel	: DECISION ON REQUEST FOR
Patent Number	: 7586490	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,168	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **907** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JAMES D IVEY
3025 TOTTERDELL STREET
OAKLAND, CA 94611-1742

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OFFICE OF PETITIONS

In re Application of :
Eric Wogsberg :
Application No. 11/111,182 :
Filed: April 20, 2005 :
Attorney Docket No. P-2307D3 :

ON PETITION

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

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 17, 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 January 18, 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) (4).

A review of the record shows that the applicant provided two (2) terminal disclaimers in reply to the non-final Office action of April 9, 2008, but was not accompanied by the appropriate fees required. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). If petitioner intends to submit a renewed petition the fee set forth under 37 CFR 1.20(d) the required fee of $140 ($70 for each terminal disclaimer) must be submitted along with the renewed petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

The centralized facsimile number is **(571) 273-8300.**

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

April M. Wise
Petitions Examiner
Office of Petitions

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JAMES D. IVEY
3025 TOTTERDELL STREET
OAKLAND, CA 94611-1742

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In re Application of	:	
Eric Wogsberg	:	
Application No. 11/111,182	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. P-2307D3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 17, 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 January 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, (3) a proper statement of unintentional delay and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.137(d)).

In view of the above, the petition is **GRANTED**.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

This application is being referred to Technology Center AU 2416 for appropriate action by the Examiner in the normal course of business on the reply received August 24, 2009.

April M. Wise
Petitions Examiners
Office of Petitions

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POLSINELLI SHALTON FLANIGAN
SUELTHAUS PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

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FEB 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph r. Garlich et al	:	
Application No. 11/111,201	:	DECISION GRANTING PETITION
Filed: April 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 050990.0100.02USCN	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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LAW, INTELLECTUAL PROPERTY GROUP
P.O. BOX 4368
HOUSTON, TX 77210-4368

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OFFICE OF PETITIONS

In re Application of Deshpande :
Application No. 11/111,202 :
Filing Date: April 21, 2005 :
Attorney Docket No. 00045-02 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2008, 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 19, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 20, 2008.

The instant petition requests revival of the application.

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

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has submitted the required petition fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent 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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Shamim S. Pirzada	: DECISION ON REQUEST FOR
Patent Number	: 7573833	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,205	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
Gerhard Dieterle et al	:	
Application No. 11/111,214	:	DECISION GRANTING PETITION
Filed: April 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7395-000025	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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United States Patent and Trademark Office
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www.uspto.gov

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Sung-Ryul Yun	: DECISION ON REQUEST FOR
Patent Number	: 7583738	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **858** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

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MAR 17 2006
OFFICE OF PETITIONS

In re Application of	:
Guo	: DECISION ON PETITION
Application No. 11/111,222	:
Filed: April 21, 2005	:
Atty. Dkt. No.: 57672CIP(70360)	:

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 17, 2006.

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

This application was held abandoned July 26, 2005, for failure to timely file a proper response to the Notice to File Missing Parts (Notice) mailed May 25, 2005. The Notice set a two month shortened statutory period for reply. Notice of Abandonment was mailed February 1, 2006.

Petitioner argues that a response to the Notice was timely submitted June 28, 2005 in accordance with the Certificate of Transmission procedures outlined at 37 CFR 1.8. Petitioner has included a copy of the response to the Office action bearing a certificate of facsimile in accordance with 37 CFR 1.8 along with a copy of a USPTO Auto-Reply Facsimile Transmission acknowledging receipt of the reply to the Notice dated June 28, 2005 as evidence of receipt of the submission.

A review of the application file does not indicate receipt of the response purportedly submitted June 28, 2005, however, the response will be considered timely as it complies with the requirements of 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously submitted correspondence with certificate of facsimile thereon has been supplied, and (3) statements attesting to the previous timely mailing have been submitted.

In view of the above, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

This application is being forwarded to OIPE for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 19 2005

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK NY 10036-8299

In re Application of	:	
Yoram Palti	:	
Serial No.: 11/111,236	:	DECISION ON PETITION
Filed: April 21, 2005	:	
For: Treating A Tumor or the Like With	:	
An Electric Field	:	

This is in response to applicants' petition filed on July 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(a), as it relates to Cancer.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02(X). 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE 12/16/08

TO SPE OF : ART UNIT 2889

SUBJECT : Request for Certificate of Correction for Appl. No.: 11111242 Patent No.: 7425796 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

(Vip Patel) for T.T.N AU 2889

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of	:
Hee Jin Byun	:
Application No. 11/111,249	: DECISION GRANTING PETITION
Filed: April 21, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CU4166	:

This is a decision on the petition, filed June 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 21, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2824 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\june10\111249.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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OCT 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Bernhard Zobel et al	:	
Application No. 11/111,263	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. F-8651	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2009 and supplemented on July 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed July 7, 2008, is accepted as having been unintentionally delayed.

The large entity portion of the petition fee submitted on July 30, 2009 has been accepted.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received July 28, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. 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) 4041-31

First named inventor: Bernhard Zobel

Application No.: 11/111,263 Art Unit: 1792

Filed: April 20, 2005 Examiner: Joseph A. Miller, Jr.

Title: METHOD FOR PRODUCTION OF TRANSMISSION-ENHANCING AND/OR REFLECTION-REDUCING OPTICAL

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 any 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)). Application claims small entity status. See 37 CFR 1.27.

☑ Other than small entity-fee $ 810.00 (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 RESPONSE and petition fee for small entity (identify type of reply):

☑ has been filed previously on July 28, 2009.

☐ is enclosed herewith.

Adjustment date: 10/16/2009 CKHLOK
07/30/2009 INTEFSW 00009327 11111263
01 FC:2453 -810.00 OP

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

☐ has been paid previously on _____

☐ is enclosed herewith.

~~10/16/2009 CKHLOK~~ 00000001 11111263
01 FC:1461 810.00 OP

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

/Deborah S. Gladstein/	July 30, 2009
Signature	Date
Deborah S. Gladstein	43,636
Type or Printed name	Registration Number, If applicable
Nixon & Vanderhye	703-816-4117
Address	Telephone Number
901 N. Glebe Rd. - Suite 1100, Arlington, VA 22203	
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 the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

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MAR 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Neal MARGULIS	:	
Application No. 11/111,265	:	DECISION ON PETITION
Filed: April 21, 2005	:	TO WITHDRAW
Attorney Docket No. 24069-12354	:	FROM RECORD
	:	

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 14, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fenwick & West LLP, has been revoked by the applicant of the patent application on March 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: INGRASSIA FISHER & LORENZ, PC
ATTN: BRETT A. CARLSON
7150 E. CAMELBACK ROAD, SUITE 325
SCOTTSDALE, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/111,265	04/21/2005	Neal Margulis	24069-12354

CONFIRMATION NO. 4700

POA ACCEPTANCE LETTER

70560
INGRASSIA FISHER & LORENZ, P.C. (ES)
7150 E. CAMELBACK ROAD
SUITE 325
SCOTTSDALE, AZ 85251

OC000000028699574

Date Mailed: 03/07/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/04/2008.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/111,265	04/21/2005	Neal Margulis	24069-12354

CONFIRMATION NO. 4700

POWER OF ATTORNEY NOTICE

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

OC000000028699502

Date Mailed: 03/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/04/2008.

- 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).

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Mail Date: 04/26/2010

Applicant	: Purva R. Rajkotia	: DECISION ON REQUEST FOR
Patent Number	: 7583630	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/111,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1089** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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DEC 16 2008

In re Application of
Liliana Rosa Grinfeld, et al.
Application No. 11/111,280
Filed: April 20, 2005
Attorney Docket No. 05-308

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 16, 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 at midnight on October 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3213.

This application is being referred to Technology Center AU 3774 for appropriate action by the Examiner in the normal course of business on the reply received.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

PTO/SB/64 (08-08)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional) 05-308

First named inventor: Liliana Rosa Grinfeld et al.

Application No.: 11/111,280 Art Unit: 3774

Filed: April 20, 2005 Examiner: Amanda H. Walters

Title: STENT FOR OSTIAL LESIONS AND VASCULAR BIFURCATIONS

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 $ 770.00 (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.

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.

/Barry L. Kelmachter #29999/	September 29, 2008
Signature	Date
Barry L. Kelmachter	29999
Typed or printed name	Registration Number, if applicable
900 Chapel Street, Suite 1201	(203) 777-6628
Address	Telephone Number
New Haven, CT 06510	
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.

Notice of Abandonment	Application No.	Applicant(s)	
	11/111,280	GRINFELD ET AL.	
	Examiner	Art Unit	
	AMANDA H. WALKER	3774	

-- 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 *16 July 2007*.
   (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:

AHW
1-5-08

/Alvin J Stewart/
Primary Examiner, Art Unit 3774

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

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JAN 22 2007

OFFICE OF PETITIONS

DUANE MORRIS LLP
IP DEPARTMENT (TSMC)
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

In re Application of	:	
Chung, et al.	:	
Application No. 11/111,281	:	DECISION ON PETITION
Filed: April 20, 2005	:	
Attorney Docket No. 2003.1403/1280.00510	:	

This is a decision on the petition under 37 CFR 1.182, filed, September 21, 2006, to correct the spelling of the name of inventor "Mark Chen" to – Kun-Lung Chen --.

The petition is **GRANTED**.

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

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

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

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

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/111,281	04/20/2005	2827	1130	2003.1403/1280.00510	4	19	3

CONFIRMATION NO. 4734

CORRECTED FILING RECEIPT

OC000000022090127

54657
DUANE MORRIS LLP
IP DEPARTMENT (TSMC)
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

Date Mailed: 01/22/2007

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)

Shine Chien Chung, Sanchong, TAIWAN;
Cliff Hou, Taipei, TAIWAN;
Kun-Lung Chen, Residence Not Provided;
Lee-Chung Lu, Taipei, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number **08933**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/111,281

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of using mixed multi-Vt devices in a cell-based design

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

FEB 20 2007

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MELISSA LEUENBERGER-FISHER, Ph.D, J.D.
ISIS PHARMACEUTICALS, INC.
1896 RUTHERFORD ROAD
CARLSBAD, CA 92008

In re Application of :
Bhanot et al : Decision on Petition
Serial No.: 11/111,288 :
Filed : 20 April 2005 :
Attorney Docket No.: HTS-0009US(4042-3014 US):

This letter is in response to the petition filed on 25 September 2006 under 37 C.F.R. 1.181 requesting withdrawal of the Finality of the last Office action and under 37 CFR 1.144 for review of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

On 21 October 2005, the examiner restricted the original 23 claims into two groups and required an election of species among the oligonucleotides recited in the alternative of claim 5. The restriction requirement pointed out rejoinder opportunities for the process invention, should the product invention be elected and found allowable.

On 20 December 2005, Applicants elected Group I and SEQ ID No 158 with traverse.

On 10 March 2006, the examiner mailed a first action on the merits acknowledging the election, considering the traversal and making the restriction requirement final. The examiner pointed out that claim 1 was a linking claim. The first Office action on the merits was lengthy and complex in that it contained a variety of rejections, including indefiniteness under 35 USC 112, second paragraph, lack of written description under 35 USC 112, first paragraph, anticipation under 35 USC 102 and obviousness under 35 USC 103 on the various claims. The various rejections were preceded by a discussion as to why the priority claims to US Provisional applications 60/564,641, 60/576,478 and 60/615,395 made under 35 USC 119(e) were being denied.

On 30 May 2006, applicants filed a response and an amendment.

On 25 July 2006, the examiner mailed a second Office action on the merits, which was made final in view of applicants' amendments to the claims.

This petition was filed on 25 September 2006. The two petitions should preferably have been presented as two separate papers.

A response to the final Office action was received on 25 October 2006. A Notice of Appeal was received on 25 January 2007.

DISCUSSION

First, the petition requests review the finality of the Office action mailed 25 July 2006. This petition and the file history have been considered carefully. The petition states that the second Office action should not have been made final because it contained new grounds of rejection to address amendments to the claims that the examiner should have reasonably expected applicants to make. This is not persuasive for the following reasons.

Original Claim 1 stated:

1. An oligomeric compound 13 to 30 nucleotides in length which is targeted to and hybridizable with a nucleic acid molecule encoding glucose-6-phosphatase translocase comprising at least two chemical modifications selected from a modified internucleoside linkage, a modified nucleobase, or a modified sugar, wherein said oligomeric compound inhibits glucose-6-phosphatase translocase expression.

In response to a first Office action on the merits mailed 10 March 2006, applicants amended claim 1 as follows:

1. **(Currently amended) An oligomeric compound ~~13 to 30~~ 18, 19, 20, 21, 22, 23 or 24 nucleotides in length which is targeted to and hybridizable with a nucleic acid molecule encoding glucose-6-phosphatase translocase (SEQ ID NO: 1), wherein said oligomeric compound comprises ~~comprising~~ at least two chemical modifications selected from the group consisting of a modified internucleoside linkage, a modified ~~nucleobase, or~~ nucleobase and a modified sugar~~, wherein said oligomeric compound inhibits glucose-6-phosphatase translocase expression~~.**

The amendment limited the glucose-6-phosphatase translocase to SEQ ID No 1 and reduced the range of compound lengths from 13-30 to 18-24.

A review of the file shows that the specification is 93 pages in length and the sequence listing is 63 pages in length, reciting 341 sequences. In general, the longer an application and the

lengthier a sequence listing, the less likely it is that an examiner would be able to reasonably anticipate incorporation of any particular limitation by way of amendment.

The first Office action on the merits was lengthy and complex in that it contained a variety of rejections, including indefiniteness under 35 USC 112, second paragraph, lack of written description under 35 USC 112, first paragraph, and anticipation under 35 USC 102 and obviousness under 35 USC 103. The various rejections were preceded by a discussion as to why the priority claims to US Provisional applications 60/564,641, 60/576,478 and 60/615,395 made under 35 USC 119(e) were being denied. Given the number and complexity of issues under examination, it is unlikely that the examiner would have reasonably expected applicants to reply in any one particular manner.

Applicants have many options for responding to a first Office action on the merits. These options include perfecting their priority claim(s), providing evidence of unexpected results, narrowing the scope of the claims and canceling claims. The Examiner could not have reasonably expected that applicants would respond by amending their claims, especially by amending any particular claims in any specific manner.

Applicants argue that the examiner should have reasonably expected claim 1 to be amended to recite SEQ ID No 1. This is not persuasive. It is noted that the sequence listing contains 341 sequences including 4 long sequences (SEQ ID Nos 1-4) apparently directed to full length molecules. The first two sequences are labeled as human sequences while the next two sequences are labeled as rat and mouse. Even if the examiner had known that the intended invention was directed to human sequences, either SEQ ID No 1 or SEQ ID No 2 may have been entered by amendment.

Moreover, a review of the original claim set does not lead one to expect that the invention is limited to human sequences. Claim 6 for example, broadly recites a method of lowering glucose in an animal. It was reasonable to expect that applicants may have amended their claims to recite mouse or rat as a means to overcome the rejection made under 35 USC 102(e) as being anticipated by or obvious over Palma et al, which teaches a human sequence useful for detecting human nucleic acid sequences.

In summary, given the length of the specification, the length of the sequence listing, the presence of plural human full length sequences in the sequence listing, the many options applicants had to respond to the rejections, including perfecting their priority claims, the examiner would not have reasonably have expected an amendment which (i) incorporated SEQ ID No 1 and (ii) reduced the range of oligonucleotides from 13 to 30 to 18-24. For these reasons, the finality of the Office action mailed 25 July 2006 is considered proper and maintained.

Second, the petition requests review of the restriction requirement mailed 21 October 2005. This petition and file history have been considered carefully.

Applicants argue that the compounds in claim 5 possess unity of invention because they specifically hybridize to the region (nucleotides 1399 to 1440) and that they share contiguous residues with each other.

This argument is not persuasive. Two molecules that hybridize to a common structure do not necessarily share a common structure one with another.

Moreover, for the sequences in claim 5 to have unity of invention, the common structure must be shared by all the alternatives, not just a select group of those claimed. Even when a select sub-group of sequences are compared, (see SEQ ID Nos 28, 158, 159, 160, 200 and 201, below) the alignment fails to identify a common structure which is shared by all the alternatives.

```
<400> 28
ggtgcggatg tttcgtagga

<400> 158
cggcccatct tggtgcggat

<400> 159
ccaggagcag cccagaagag

<400> 160
ccaaccagga gcagcccaga

<400> 200
ccatcttggt gcggatgttt

<400> 201
actcggccca tcttggtgcg
```

Moreover, a comparison of the current claim set shows that the entire 20-mer sequence of SEQ ID Nos 28, 59, 158, 200 or 2001 are not required for the invention as claimed. Claim 1 broadly reads upon any 18-mer oligomeric compound that hybridizes to residues 1399 to 1440 of SEQ ID No 1. Moreover, claim 18 requires only a 13 base portion of SEQ ID No 28, 59, 158, 200 or 201. The argument concerning the common structure shared between various sequences is not commensurate in scope with the claims, because the claims 1 and 29 do not require the entire sequence as described by its SEQ ID No.

Applicants' attention is directed to the MPEP section 803.02 which deals with the treatment of Markush-Type claims:

> If the members of a Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions.

Clearly this is not the situation in the instant application, as original claim 5 recites 88 distinct nucleic acid sequences. A search for one sequence would not necessarily identify prior art that could be applied to the other sequences. A determination that one sequence was patentable could not be used as grounds for allowing the other sequences. The oligomeric compounds having SEQ ID Nos listed in claim 5 are separately patentable one over another. As discussed above, the sequences listed in claim 5 lack a common structural feature essential to the common utility and therefore concurrent examination of all 88 sequences is not required. The Office was correct in asking applicants to elect a sequence to begin search and examination.

When inventions, albeit it species encompassed by a genus or independent or distinct inventions, are recited in the alternative of a claim (Markush-type claim) the examination practice set forth in 803.02 applies. The search and examination of alternatives in a Markush-type will be limited to the elected species and the provisional election of species requirement will take the effect of a restriction requirement when the elected species is not allowable. In this application, it was correct for the examiner to limit the search and examination in the first Office action on the merits to the elected species in view of the rejection under 35 USC 102(e) made on the elected species.

It is also noted that Applicants' claim set includes claim 1 and claim 28, which encompasses the Markush alternatives of claim 5 using true generic language. Claim 1, reproduced above, and claim 28 are linking claims that do not recite the sequences in the alternative.

Original claim 1 is a genus claim that links the elected and non-elected species. See 809 and 821.04(a) for examination practice for linking claims. In brief, should the linking claim be in condition for allowance, the restriction requirement between the linked inventions should be withdrawn and the claims directed to the linked inventions examined fully on the merits. As evidenced by the second Office action on the merits, mailed 25 July 2006, however, linking claims 1 and 28 are not in condition for allowance, in view of the pending rejections. In this instance, the examiner was not bound to extent the search and examination to a second species of claim 5 because the generic claim linking the species was not in condition for allowance.

Accordingly, the examination practice set forth in the first Office action on the merits and the final Office action is correct for the type of restriction, election, and claims under examination.

DECISION

The petition filed under 37 CFR 1.181 is **DENIED**.

The petition filed under 37 CFR 1.144 is **DENIED**.

The application will be forwarded to the examiner to consider the response and amendment filed 25 October 2006.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist/Program Manager 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.

George C. Elliott

George Elliott
Director, Technology Center 1600

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80528

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JAN 04 2010

OFFICE OF PETITIONS

In re Application of
Anuja Korgaonkar, et. al.
Application No. 11/111,296
Filed: April 20, 2005
Attorney Docket No. 200500905-1

ON PETITION

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

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Ken J. Koestner 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.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with the $540 fee (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

As authorized, the appeal brief fee of $540 has been charged to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 2189 for review of the response filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

PATENT APPLICATION

ATTORNEY DOCKET NO. 200500905-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Anuja Korgaonkar et al.

Confirmation No.: 5262

Application No.: 11/111,296

Examiner: Loonan, Eric T.

Filing Date: April 20, 2005

Group Art Unit: 2109

Title: STORAGE SYSTEM USING DISK GROUP METADATA THAT SELF-IDENTIFIES DISK GROUP STATE

Mail Stop Petition
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

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

1. This application became abandoned on 09/16/2009.

2. This application became abandoned because the failure to prosecute was an unintentional delay. 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.

3. Response or action required:

   ☐ has been filed on _____.
   ☒ is enclosed herewith.
   ☐ the response is the filing of a Continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

4. Terminal disclaimer 37 CRF 1.137 (c):

   ☐ Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.
   ☐ A terminal disclaimer and disclaimer fee of $140.00 disclaiming a period of equivalent to the period for abandonment is enclosed herewith.

Charge $1,620.00 to credit card. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Respectfully submitted,

Anuja Korgaonkar et al.

By: /Ken J. Koestner/

Ken J. Koestner

Attorney/Agent for Applicant(s)

Reg No. : 33004

Date : November 10, 2009

Telephone : (949) 251-0250

12/31/2009 CKHLUK 00000006 082025 11111296
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CHARLESTON WV 25325-1386

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OFFICE OF PETITIONS

In re Application of	:	
SMITH, Danny	:	
Application No. 11/111,298	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. **S3241.80000**	:	FROM RECORD

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 04, 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 John Giblin, Jr.. John Giblin has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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MARGER, JOHNSON & MCCOLLOM PC
210 SW MORRISON STREET
SUITE 400
PORTLAND OR 97204

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
C. Norman Winningstad, et al.	:	
Application No. 11/111,300	:	DECISION ON PETITION
Filed: April 20, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 9740-004	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 27, 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 declaration statement signed by applicant C. Norman Winningstad. 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 2621 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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Raj S. Dave
Morrison & Foester, LLP
1650 Tysons, Boulevard, Suite 300
Mclean, VA 22102

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JUN 2 6 2007

OFFICE OF PETITIONS

In re Application of
Xing Su et al.
Application No. 11/111,308
Filed: April 20, 2005
Attorney Docket No. INTEL 1340-2 (P14243D)

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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 Laura Chung on behalf of all attorneys associated with customer number 25227. All attorneys/agents associated with customer number 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 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. A courtesy copy of this decision is being mailed to the address noted on the request. However, if the person named on the request desires to receive future correspondence regarding this file, the appropriate documents must be submitted.

The status of the application is currently allowed. As Notice of Allowance will be forthcoming which will require a reply from applicant.

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

for Frances Hicks
Petitions Examiner
Office of Petitions

cc: Intel Corporation
2200 Mission College Boulevard
Santa Clara, CA 95052

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/111,308	04/20/2005	Xing Su	INTEL1340-2(P14243D)

CONFIRMATION NO. 6811

OC000000024530003

Raj S. Dave
Morrison & Foerster LLP
1650 Tysons, Blvd., Suite 300
McLean, VA 22102

Date Mailed: 06/26/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/02/2007.

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

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

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KRUMHOLZ & MENTLIK
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WESTFIELD NJ 07090

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of

Kenichi Iida

Application No. 11/111,309

Filed: April 20, 2005

Attorney Docket No

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10 filed June 2, 2008.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.10."

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be April 21, 2005, not the currently accorded date of April 20, 2005.

Section 1.10(a) of the Title 37 of the Code of Federal Regulations indicates that correspondence received by the Patent and Trademark Office that was delivered by Express Mail will be considered filed in the Office on the date of deposit with the United States Postal Service. Where there is a discrepancy between the date of deposit as shown on the Express Mail label and the filing date accorded the correspondence by the Office, 37 CFR 1.10(c) provides that an applicant may petition to have the Commissioner accord the correspondence a filing date as of the "date in" on Express Mail label. In accordance with 37 CFR 1.10(c), a successful 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) [provide] the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constituted the correspondence prior to the original mailing by Express Mail; and
>
> (3) . . . include 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.

The instant petition does not satisfy the requirements of items (1) and (3) above.

As to item (1), petitioner has not established that the petition was filed promptly after petitioner discovered that the filing date might be incorrect. The record reflects, and petitioner states, that the USPTO notified petitioner on June 4, 2007, that a petition under 37 CFR 1.10 was necessary to correct the filing date. Petitioner did not file the instant petition until almost one year later. The renewed petition must explain this delay in filing the petition under 37 CFR 1.10.

Relative to item (3), a true copy of Express Mail mailing label EL970697367US showing a "date-in" of April 21, 2005 was not found with the petition papers. The renewed petition should be accompanied by a copy of the Express Mail label showing a "date-in" of April 21, 2005.

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

By mail: Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Kazuhiko Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7574027	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1117** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

2 1 AUG 2008

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NEAL, GERBER, & EISENBERG
SUITE 2200
2 NORTH LASALLE STREET
CHICAGO IL 60602

In re Application of	:
JOHNSON et al.	:
Application No. 11/111,323	: DECISION ON PETITION
Filed: 21 April 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 17017.01US2	: and 1.78(a)(6)

This is a decision on the petition, filed 20 November 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed PCT Application No. PCT/US03/34031 filed on 24 October 2003. Because petitioner seeks recognition of a benefit claim to the provisional application set forth in the concurrently filed amendment, the petition has been treated as a petition under 37 CFR 1.78(a)(3) and 1.78 (a)(6).

The application file has been reviewed, and it is concluded that applicant failed to timely make a proper benefit claim to PCT Application No. PCT/US03/34031 and provisional application 60/421, 011 in accordance with 37 CFR 1.78(a). Thus, the filing of a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) is necessary. For the reasons set forth below, the petition is **DISMISSED**.

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

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

The petition satisfies Item (2) as the surcharge fee required by 37 CFR 1.17(t) has been submitted. With respect to Item (3), Petitioner states that "the delay between the date the claim for domestic priority was due and the filing of this petition was unintentional." This statement has been construed to mean that "the entire delay between the date the claims were due under 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii) and the date the claims were filed was unintentional." If this is incorrect, petitioner must notify the USPTO immediately. As so construed, the petition contains a proper statement of unintentional delay satisfying 37 CFR 1.78(a)(3) and (a)(6) statement requirements of unintentional delay.

However, the petition fails to satisfy Item (1) and the requirements of 35 U.S.C. §§119(e) and 120 because application does not name a common inventor as required under 35 U.S.C. §§119(e) and 120 and 37 CFR1.78(a). On 09 May 2008, Petitioner filed a request for correction of inventorship under 37 CFR §1.48(a). The examiner assigned to this application reviewed applicant's request for correction of inventorship and has indicated that the request is insufficient. International application PCT/US03/34031 and provisional application 60/421,011 name Michael Johnson as the inventor; the declaration filed on 19 September 2005 in the instant U.S. application names Glenn Johnson as the sole inventor. Until such time as the request to add Michael Johnson as a joint inventor in the instant application is granted, the petition under 37 CFR 1.78 must be dismissed for lack of common inventor.

Accordingly, 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 prior-filed PCT application and provisional application does not satisfy the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is dismissed at this time.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Sr. PCT Legal Examiner
Office of PCT Legal Administration

8 MAY 2009

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SUITE 2200
2 NORTH LASALLE STREET
CHICAGO IL 60602

In re Application of	:
JOHNSON et al.	:
Application No. 11/111,323	: DECISION ON PETITION
Filed: 21 April 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 17017.01US2	: and 1.78(a)(6)

This is a decision on the petition, filed 18 March 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed PCT Application No. PCT/US03/34031 filed on 24 October 2003. Because petitioner seeks recognition of a benefit claim to the provisional application set forth in the concurrently filed amendment, the petition has been treated as a petition under 37 CFR 1.78(a)(3) and 1.78 (a)(6).

Applicant filed a petition under 37 CFR 1.78(a)(3) and (a)(6). The petition was dismissed because it failed to have a proper reference due to the lack of a common inventor as required under 35 U.S.C. 199(e) and 120 and 37 CFR 1.78(a).

As previously indicated, the application file has been reviewed, and it is concluded that applicant failed to timely make a proper benefit claim to PCT Application No. PCT/US03/34031 in accordance with 37 CFR 1.78(a). Thus, the filing of a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) is necessary. Such petition is hereby **GRANTED**.

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed international application has been included in amended Page 1 of the specification, as provided by 37 CFR 1.78(a)(2)(iii); and (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted. With respect to Item (3), Petitioner states that "the delay between the date the claim for domestic priority was due and the filing of this Petition was unintentional." This statement has been construed to mean that "the entire delay between the date the claims were due under 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii) and the date the claims were filed was unintentional." If this is incorrect, petitioner must notify the USPTO

immediately. As so construed, the petition contains a proper statement of unintentional delay satisfying 37 CFR 1.78(a)(3) and (a)(6) statement requirements of unintentional delay. Accordingly, having found that 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 prior-filed PCT application and provisional satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed international application under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.§§119(c), 120 and 365(c) and 37 CFR §§1.78(a)(1), (a)(2), (a)(4) and (a)(5) must be met. Similarly, the fact that a Filing Receipt 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 this application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286.

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

BryanLin

Bryan Lin

PCT Legal Examiner

Office of PCT Legal Administration

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Hollingsworth & Funk, LLC
Suite 125
8009 34th Avenue South
Minneapolis MN 55425

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of	:
Tokkonen	:
Application No. 11/111,326	: DECISION ON PETITION
Filed: April 21, 2005	:
Docket No.: KOLS.181PA	:

This is a decision on the petition under 37 CFR 1.181, filed April 19, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed August 11, 2006. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed April 11, 2007.

Petitioner asserts that a response to the Office communication and a petition for extension of time were timely submitted January 8, 2007.

The original response submitted January 8, 2007 has not been located. However, the copy of the response submitted herewith bears a certificate of mailing date of January 8, 2007 in accordance with 37 CFR 1.8 and is thus deemed to have been timely submitted.

The required two month extension of time fee has been charged to petitioner's deposit account, as authorized.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

WAGNER, ANDERSON & BRIGHT, LLP
3541 OCEAN VIEW BLVD
GLENDALE CA 91208

In re Application of

URIEL, Guy
Application No. 11/111,327
Filed: April 21, 2005
Attorney Docket No. **RLA35.065**

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 09, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Roy Anderson, the sole attorney of record. Roy Anderson 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 inventor Guy Uriel at the address indicated below. There is an outstanding Office action mailed September 04, 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: **GUY URIEL**
4821 LANKERSHIM BLVD. #F327
NORTH HOLLYWOOD CA 91602

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HIGGS, FLETCHER & MACK LLP
2600 FIRST NATIONAL BANK BUILDING
401 WEST "A" STREET
SAN DIEGO CA 92101-7910

In re Application of
SANCHEZ, JORGE
Application No. 11/111,335
Filed: April 21, 2005
For: **METHOD AND APPARATUS FOR DIGITAL SIGNAL PROCESSING ENHANCED LASER PERFORMANCE COMPENSATION**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 21, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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CHRISTIAN AUSTIN - HOLLANDS ESQ.
PO BOX 170325
SAN FRANCISCO CA 94117

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OFFICE OF PETITIONS

In re Application of
Giovanni L. Thione et al.
Application No. 11/111.348
Filed: April 20, 2005
Attorney Docket No. 20050354-US-NP-317009

ON PETITION

This is a decision on the petition under 37 CFR 1.10 (c), filed August 12, 2005, to correct the filing date to April 20, 2005, rather than the presently accorded filing date of April 21, 2005.

Petitioner alleges that the application was deposited in Express Mail service on April 20, 2005. In support, petitioner has supplied a copy of Express Mail Label No. ED448772693US (the same Express Mail number found on the transmittal sheet and the accompanying application papers located in the official file). The "date-in" on the Express Mail Label is April 20, 2005.

In view of the above, the petition is **GRANTED** and no fees are due with respect to the instant petition.

The matter of the filing date is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to April 20, 2005** and for issuance of a corrected filing receipt.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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OFFICE OF PETITIONS

In re Application of	:	
Richard Moscatiello	:	
Application No. 11/111,349	:	DECISION ON PETITION
Filed: April 21, 2005	:	TO WITHDRAW
Attorney Docket No. 13222.0001U2	:	FROM RECORD
	:	

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, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, [w]e believe that the former client asserts to the termination of the representation" 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, Assignee of the above-identified application assented to withdrawal of representation," does not meet any of the conditions set forth in 37 CFR 10.40.

It is further noted that an assignee has not properly intervened in this application. If an assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then the appropriate power of attorney documents must be submitted. Note 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to the address noted in the petition.

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

Applicant is advised that that final rejection was mailed on April 5, 2007. Failure to timely respond will result in the abandonment of this application.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mountain View Systems, LLC
109 Kathryn Avenue
Decatur, GA 30030

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

Mail Date: 04/21/2010

Applicant	: Luan C. Tran	: DECISION ON REQUEST FOR
Patent Number	: 7659161	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,360	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **137** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OCT 19 2005

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK NY 10036-8299

In re Application of	:	
Yoram Palti	:	
Serial No.: 11/111,393	:	DECISION ON PETITION
Filed: April 21, 2005	:	
For: Treating A Tumor or the Like With	:	
An Electric Field	:	

This is in response to applicants' petition filed on July 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(a), as it relates to Cancer.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02(X). 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

Frederick R. Schmidt, Director
Technology Center 3700

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

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Yaw Terng-Chern :
Application No. 11/111,406 :
Filed: April 21, 2005 :
Attorney Docket No.: DEE-PT232 :

This is a decision on the petition filed August 16, 2007 to withdraw the holding of abandonment for the above-identified application. The petition is treated under 37 CFR 1.181.

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

The application was held abandoned on March 26, 2007, for failure to timely submit a timely response to the Office Action mailed January 24, 2007 and which set a three month period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment and a post card receipt date stamped April 24, 2007 by the USPTO.

A search of the application file and the USPTO records does not reveal receipt of the response, but the evidence submitted corroborates a timely response to the non-Final Office Action.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 1621 for appropriate action on the amendment filed April 24, 2007, a copy of which was submitted upon petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: RENEE M. QUICK
20511 LAKE FOREST DR.
E-118H
LAKE FOREST CA 92630

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OFFICE OF PETITIONS

In re Application of	:	
Kenny T. Coker	:	
Application Number: 11/111411	:	DECISION GRANTING PETITION
Filing Date: 04/20/2005	:	
Attorney Docket Number: A1560	:	

This is a decision in reference to the "PETITION TO CORRECT FILING DATE UNDER 37 CFR § 1.10(c)" filed on 15 August, 2007, requesting that the above-identified application be accorded a filing date of 20 April, 2005, rather than the currently-accorded filing date of 21 April, 2005.

The petition is **granted**.

Petitioner asserts that the application was deposited in Express Mail Service on 20 April, 2005. In support, petitioner has provided a copy of the Express Mail Customer Label EV635994754US (the same Express Mail number found on the itemized utility patent application transmittal sheet accompanying the original application papers located in the official file). The "date accepted" as shown on the Express Mail label is "4/20/05".

As such, the showing of record is that the correct date of deposit in Express Mail is 20 April, 2005.

In view of the above, the petition is granted.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 20 April, 2005, and for issuance of a corrected Filing Receipt.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PROSKAUER ROSE
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036-8299

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OFFICE OF PETITIONS

In re Application of	:	
Yoram Palti	:	
Application No. 11/111,423	:	DECISION ON PETITION
Filed: April 21, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 65842-030	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on July 22, 2005, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition meets the requirements of MPEP § 708.02(X). Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 1614 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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OCT 19 2005

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK NY 10036-8299

In re Application of	:	
Yoram Palti	:	
Serial No.: 11/111,439	:	DECISION ON PETITION
Filed: April 21, 2005	:	
For: Treating A Tumor or the Like With	:	
An Electric Fields at Different	:	
Orientations	:	

This is in response to applicants' petition filed on July 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(a), as it relates to Cancer.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02(X). 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

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MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

Mail Date: 04/21/2010

Applicant	: Jerrold R. Turner	: DECISION ON REQUEST FOR
Patent Number	: 7585844	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

Mail Date: 05/18/2010

Applicant : Jerrold R. Turner
Patent Number : 7585844
Issue Date : 09/08/2009
Application No : 11/111,463
Filed : 04/21/2005

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

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

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

The patent term adjustment has been determined to be **817** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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STITES & HARBISON, PLLC
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SUITE 1800
LOUISVILLE, KY 40202-3352

Mail Date: 04/21/2010

Applicant	: Todd W. Craig	: DECISION ON REQUEST FOR
Patent Number	: 7610837	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1176** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 13 2005

TECHNOLOGY CENTER 3600

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

In re application of	:	**DECISION ON PETITION**
David S. Breed et al.	:	**TO MAKE SPECIAL**
Application No. 11,111,474	:	**(APPLICANT'S AGE)**
Filed: April 21, 2005	:	
For: METHOD FOR OBTAINING INFORMATION ABOUT OBJECTS IN A VEHICULAR BLIND SPOT		

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

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/slb: 07/25/05

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAIL

FEB 16 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Thies Schrader, et al.
Application No. 11/111,496
Filed: April 21, 2005
For: **SYSTEM AND METHOD FOR INCLUDING PARTICIPANTS IN A CONFERENCE CALL**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition filed August 18, 2006 under MPEP§708.02 VIII requesting accelerated examination.

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

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

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

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 1 5 2006

In re Application of	:	ap
Tino Oldani et al	:	DECISION
Serial No. 11/111,500	:	ON
Filed: April 21, 2005	:	PETITION
For: AUTOMATED FIBER PLACEMENT	:	UNDER 708.02,VIII
USING MULTIPLE PLACEMENT HEADS,	:	
REPLACEABLE CREELS, AND REPLACEABLE	:	
PLACEMENT HEADS		

This is in response to the petition filed February 10, 2006, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(c) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner.

Accordingly, the petition is **DENIED.**

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

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Mailed: MAR 2 1 2006

WAK

In re application of
Tino Oldani et al.
Serial No. 11/111,500
Filed: April 21, 2005
For: AUTOMATED FIBER PLACEMENT USING MULTIPLE PLACEMENT HEADS, REPLACEABLE CREELS, AND REPLACEABLE PLACEMENT HEADS

DECISION ON PETITION

This is reconsideration to the petition decision dated March 15, 2006, denying applicant's request that the application be granted Special Status. The petition has been reconsidered under Section 708.02(VIII) of the MPEP.

The petition is **GRANTED**.

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

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OFFICE OF PETITIONS

GREG GOSHORN, P.C.
9600 ESCARPMENT
SUITE 745-9
AUSTIN, TX 78749

In re Application of	:	
Michael Haden Conner et al	:	
Application No. 11/111,505	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. AUS920050183US1	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed October 2, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on November 3, 2008.

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

This matter is being referred to Technology Center AU 2455 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Goguen et al.
Application No.11/111,507
Filed: April 21, 2005
Attorney Docket No. B03-47

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before February 1, 2008, as required by the Notice of Allowability, mailed January 11, 2007. Accordingly, the date of abandonment of this application is February 2, 2008. A Notice of Abandonment was mailed of February 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings, (2) the petition fee of 1540; and (3) a proper statement of unintentional delay.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 06/18/2010

Applicant	: H. Michael Zadikian	: DECISION ON REQUEST FOR
Patent Number	: 7633949	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/111,513	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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LAW OFFICES OF KARL HORMANN
P.O. BOX 381516
CAMBRIDGE, MA 02238-1516

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OFFICE OF PETITIONS

In re Application of	:	
Annelie Flynn	:	
Application No. 11/111,514	:	DECISION ON PETITION
Filed: April 21, 2005	:	TO MAKE SPECIAL
Attorney Docket No. 050674-US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c), filed April 27, 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 IV: Applicant's Age.

The petition is **DISMISSED**.

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

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, such as a doctor's certificate or other medical certificate, showing 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 does not provide the evidence, as indicated in the MPEP § 708.02, Section IV above, to support the petition.

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

The application is being forwarded to the Technology Center Art Unit 3727 for action in its regular turn.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER, CO 80237

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OFFICE OF PETITIONS

In re Application of	:	
Allen S. Aldridge, et al.	:	
Application No.: 11/111,523	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No.: 50121-00067	:	

This is a decision on the petition, filed March 19, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Karl Dierenbach appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 1, 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 3728 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 04/21/2010

Applicant	: Allen S. Aldridge	: DECISION ON REQUEST FOR
Patent Number	: 7569008	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **543** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

Mail Date: 04/20/2010

Applicant	: Michael Shur	: DECISION ON REQUEST FOR
Patent Number	: 7638817	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,541	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Patent of Franz :
Patent No. 7,506,254 :
Issue Date: March 17, 2009 :
Application No. 11/111,583 :
Filing Date: April 21, 2005 :
Attorney Docket No. 16113-0614001 :

DECISION ON APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed May 13, 2009. Patentee requests the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from six hundred fifty-three (653) days to eight hundred twenty-four (824) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application was filed April 21, 2005. On January 7, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 653 days.[1]

The application matured into United States Patent No. 7,506,254, with a patent term adjustment of 653 days on March 17, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent. The request states a terminal disclaimer has not been filed.

Patentee states the amount of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 171 days and seeks for the patent term adjustment to be increased by 171 days to 824 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include the number of days from the date a request for continued examination is filed until the patent is issued.[2] In other words, the

[1] The patent term adjustment of 653 days was based on 653 days of Office delay reduced by 0 days of applicant delay. A request for reconsideration of this initial determination was not filed.

[2] *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued

filing of a Request for Continued Examination ("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.[3]

In this case, a RCE was filed October 9, 2008, which is a date three years and 171 days after the filing date of the application. Therefore, the amount of B delay in the instant case is 171 days.[4] In other words, the Office agrees with patentee's calculation of the number of days of B Delay.

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.

Patentees contend the amount of overlap between A Delay and B Delay is 0 days. However, the Office contends the amount of overlap overlap is 171 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.[5]

---

examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

[3] [I]f a request for continued examination is filed in an application, the applicant may still accrue patent term adjustment under 35 U.S.C. 154(b)(1)(A) or (C). *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000).

[4] The instant case does not contain any time periods falling under 35 U.S.C. § 154(b)(1)(B)(ii)-(iii).

[5] *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-

The relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, April 21, 2005, to the date of filing of the request for continued examination, October 9, 2008. In this case, the 171 days of B delay overlaps with 171 days of the 653 days delay attributable to grounds specified in 37 C.F.R. § 1.702(a)(1).

For the reasons previously discussed, the Office acted properly when it did not increase the patent term adjustment as a result of the Office taking in excess of three years to issue the patent.

The Office recognizes patentee's arguments based on the Memorandum and Order entered in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). However, the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999). A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

> [T]otal adjustments granted for restorations under (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 * * * and administrative delay under section 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.[6]

In view of the previous discussion, the patent term adjustment set forth on the patent remains 653 days. Therefore, the patent term adjustment on the patent will not be changed.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

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

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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.

[6] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

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PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

COPY MAILED
FEB 03 2010

In re Application of	:	
John F. Shakespeare	:	
Application No. 11/111,584	:	DECISION ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. H0007647	:	

This is a decision on the petition, filed October 1, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(a). Alternatively, petitioner requests that the application be revived 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. Charles H. Jew 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. A courtesy copy of this decision is being mailed to petitioner. If Mr. Jew desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted address of record.

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

This application was held abandoned for failure to pay the issue fee on or before April 28, 2009. A Notice of Abandonment was mailed on May 27, 2009. On October 1, 2009, the present petition was filed.

Petitioner states that the issue fee was timely filed by facsimile transmission on March 30, 2009.

The file record does not include the originally submitted correspondence. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> 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 does not satisfy item (3) above. In this regard, while the sending unit's report indicates 3 pages were scanned for transmission to the USPTO, the Auto-Reply Facsimile Transmission report indicates 2 pages including the cover page was received at the USPTO. Therefore, it is unclear if Form PTOL-85, Part B- Fee(s) Transmittal, was one of the pages actually received by the USPTO on March 30, 2009.

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 and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition under 37 CFR 137(b) is **GRANTED**.

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

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[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.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHARLES H. JEW
236 WEST PORTAL AVE., STE. 533
SAN FRANCISCO, CA 94127

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APR 01 2010

OFFICE OF PETITIONS

In re Application of
John F. Shakespeare et al
Application No. 11/111,584
Filed: April 21, 2005
Attorney Docket No. H0007647

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed, March 15, 2010.

The request is **GRANTED**-in part.

Applicants request that the amount of $1570 remaining after deduction from the $5000 check submitted on October 1, 2009, be credited to deposit account number 50-3737, as authorization was provided in the Fee Transmittal submitted on October 1, 2009. However, the balance remaining from the $5000.00 check submitted is $1,030.00.

Issue Fee - $1,510.00
Publication Fee - $300.00
Petition Fee under the provisions of 37 CFR 1.137(a) - $540.00
Petition Fee under the provisions of 37 CFR 1.137(b) - $1,620.00

Applicant is encouraged to note MPEP 711.03(c) which states:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), 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: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

A decision was rendered under the provisions of 37 CFR 1.137(a) and 37 CFR 1.137(b).

It is noted that a fee of $80.00 was charged to deposit account no. 50-3737 on October 1, 2009. Therefore, a total of $1,110.00 is being credited to deposit account no. 50-3737 as authorized.

Applicant was advised in the decision mailed February 3, 2010, that an appropriate power of attorney or authorization of agent must be submitted if Mr. Jew desires to receive future correspondence regarding this application.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

CHARLES H. JEW
CASCIO, SCHMOYER & ZERVAS
236 WEST PORTAL AVENUE STE. 533
SAN FRANCISCO, CA 94127

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OFFICE OF PETITIONS

In re Application of	:	
Lin et al.	:	DECISION ON PETITION
Application No. 11/111,585	:	TO WITHDRAW
Filed: April 21, 2007	:	FROM RECORD
Attorney Docket No. 06-0262	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2009.

The request is **NOT APPROVED**.

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

The request was signed by Ehab M. Samuel on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

Currently, there is an outstanding Office action mailed January 6, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

Mail Date: 04/20/2010

Applicant	: David Alexander Barker	: DECISION ON REQUEST FOR
Patent Number	: 7584470	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1065** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

Mail Date: 04/21/2010

Applicant	: Eduard A. Cartier	: DECISION ON REQUEST FOR
Patent Number	: 7598545	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **761** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 05/19/2010

Applicant	: Yhean-Sen Lai	: DECISION ON REQUEST FOR
Patent Number	: 7639769	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/111,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1172** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN, OK 73536

Mail Date: 05/24/2010

Applicant	: James E. Uhl	: DECISION ON REQUEST FOR
Patent Number	: 7660194	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/111,627	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 04/20/2010

Applicant	: Junhua Ding	: DECISION ON REQUEST FOR
Patent Number	: 7621290	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,646	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **958** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/111,654	04/20/2005	2183	1050	SUN05-0410	8	21	3

CONFIRMATION NO. 6134

CORRECTED FILING RECEIPT

OC000000016148541

22835
A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95616

Date Mailed: 05/31/2005

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

Applicant(s)

Abid Ali, San Jose, CA;
Paul Caprioli, Mountain View, CA;
Shailender Chaudhry, San Francisco, CA;
Miles Lee, Sunnyvale, CA;

Power of Attorney:

Arvin Park--41241
Hoyt Fleming III--41752
Daniel Vaughan--42199
Edward Grundler--47615

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/111,654

Projected Publication Date: 10/26/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for suppressing duplicative prefetches for branch target cache lines

Preliminary Class

712

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

GRANTED

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

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

NOT GRANTED

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

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In re Application of	:	
Philippe Crine et al.	:	
Application No. 11/111,664	:	DECISION ON PETITION
Filed: April 21, 2005	:	TO WITHDRAW
Attorney Docket No. 2006078-0003 (JG/12987.52)	:	FROM RECORD
	:	

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 10, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Choate, Hall & Stewart has been revoked by the assignee of the patent application on September 8, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Clark & Elbing, LLP
101 Federal Street
Boston, MA 02110

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Paper No.

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MAR 18 2010

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:	
Crine et al.	:	
Application No. 11/111,664	:	ON APPLICATION FOR
Filed: April 21, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 50694/002004	:	
Title: BONE DELIVERY	:	
CONJUGATES AND METHOD OF	:	
USING SAME TO TARGET PROTEINS	:	
TO BONE	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed December 8, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred and fifty-one (451) days, not three hundred and nine (309) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

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

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

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Theresa M. Gosko	:	
Application No. 11/111,666	:	
Filed: April 21, 2005	:	DECISION ON PETITION
Attorney Docket No.:	:	
DC-02439A	:	

This is a decision on the Petition and Response to Notice]of Omitted Item(s) in a Non-provisional Application, filed June 23, 2005.

The above-identified application was filed on April 21, 2005. In response, on May 17, 2005, this Office mailed a Notice of Omitted Item(s) in a Provisional Application, informing Applicant that a filing date had been accorded the application; however, Figures 5-6G, 17-1 - 24, 18A-H, 19A-K, 20A-F, 21A-C, 22A-F, 23, 23A-3A-D, 23-4A-B, 23-5A-B, 23-7, 23-8A-H, 23-9A-E, 23-10A-B, 23-11A-J, 23-12, 23-13, 23-15A-B, 23-17A-C, 23-18, 23-19A-B, 23-20, 23-21, 23-22, and 23-23 described in the specification appeared to have been omitted from the application.

Applicant files the instant petition and submits the missing drawing Figures, save Figure 5-5G. Applicant's states that there is no Figure 5-5G and an amendment to the specification canceling the reference to Figure 5-5G is forthcoming. Applicant states that the filing of the missing Figures completes the filing of this Application.

A review of the August 11, 2004 Notice reveals that the Notice presented Applicant with two options. The first option was based upon a contention that the drawing Figures were present on filing, and in that instance Applicant was allowed to promptly file proof that the drawings were present on filing. The second option was for Applicant to do nothing, which, Applicant was informed, would be treated as constructive acceptance by the Applicant of the application as-filed.

Here, Applicant submits the omitted Figures in an effort to complete the application[1].

Applicant has not provided any evidence that would demonstrate that the drawing Figures were filed with this Office on April 21, 2005. If the drawing Figures were not present on the April 21, 2005 filing date, they cannot be considered a part of the original disclosure of the application. Petitioner has failed to satisfactorily demonstrate that the drawing Figures were present in the Office on April 21, 2005. Therefore, the application cannot be accorded the April 21, 2005 filing date with the drawing Figures supplied with the instant petition as part of the original application disclosure[2].

The petition is **DISMISSED**.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be referred to the Office of Initial Patent Examination for continued processing with the original filing date of April 21, 2005, using the application papers filed on that date, and an indication that drawing Figures 5-6G, 17-1 - 24, 18A-H, 19A-K, 20A-F, 21A-C, 22A-F, 23, 23A-3A-D, 23-4A-B, 23-5A-B, 23-7, 23-8A-H, 23-9A-E, 23-10A-B, 23-11A-J, 23-12, 23-13, 23-15A-B, 23-17A-C, 23-18, 23-19A-B, 23-20, 23-21, 23-22, and 23-23 described in the specification were NOT present on filing and are NOT part of the original application disclosure.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

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[1] In a telephone conversation with Applicant on July 26, 2005, Applicant asserted his desire to maintain the original application filing date.

[2] The best evidence of what was filed on April 21, 2005, is applicant's postcard receipt. "If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO." MPEP § 503.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Antoinette R. DiPerna
6522 North Pla. Alta Reposa
Tucson AZ 85750

In re Application of: Antoinette R. DiPerna
Application No. 11/111,678
Filed: April 21, 2005
For: SYSTEM, APPARATUS, METHOD, AND PROGRAM FOR PROVIDING VIRTUAL BOOKS TO A DATA CAPABLE MOBILE PHONE/DEVICE

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in response to the petition filed 19 January 2010 under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Office action mailed 21 July 2009. A Notice of Abandonment was mailed on 28 January 2010.

37 C.F.R. § 1.8(a) states:

(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

A review of file record indicates that both the original Request for Continued Examination (RCE) and the three (3) months extension of time filed 21 January, 2010 were in the file in accordance with 37 C.F.R. § 1.8(a)(1)(ii).

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

The Notice of **Abandonment** is hereby **WITHDRAWN**.

The copy of RCE and Amendment filed on 21 January, 2010 is being forwarded to the Technology Center support Staff for processing. The file will then be forwarded to the examiner for appropriate action.

/Kim Huynh/

Kim Huynh,
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/111,678	04/21/2005	Antoinette Rose DiPerna	01	4634

7590 03/08/2010

Antoinette R. DiPerna
6522 North Pla. Alta Reposa
Tucson, AZ 85750

EXAMINER
AHMED, MOHAMMED

ART UNIT	PAPER NUMBER
2456	

MAIL DATE	DELIVERY MODE
03/08/2010	PAPER

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

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

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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
Bojji Rajaram	:	
Application No. 11/111,692	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 1438-14	:	

This is a decision on the petition under 37 CFR 1.137(b) filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 19, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 21, 2006. The Notice of Abandonment was mailed June 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 3663 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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BARLEY SYDER, LLC
1000 WESTLAKES DRIVE, Suite 275
BERWYN, PA 19312

JAN 11 2006

In re Application of:	:	
Hartmuth Ploesser	:	NOTICE OF WITHDRAWAL
Application No. 11/111,701	:	FROM ISSUE
Filed: April 21, 2005	:	UNDER 37 CFR 1.313
Attorney Docket No. 21334-1445	:	

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 11, 2005, are hereby vacated.

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

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

Telephone inquires should be directed to T. C. Patel at (571) 272-2098.

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

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004-2128

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APR 13 2007

OFFICE OF PETITIONS

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 11/111,747	: DECISION GRANTING PETITION
Filed: April 22, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2844	:

This is a decision on the petition, filed April 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of Yoneda et al. :
Application No. 11/111,809 :
Filing Date: April 22, 2005 :
Attorney Docket No. 4710-0114PUS1 :

Decision on Petition

This is a decision on the petition filed April 4, 2006, to accord the above-identified application a filing date of April 4, 2006.

The petition is **granted**.

Facts:

The application was filed on April 22, 2005.

Drawings were inadvertently omitted from the application papers.

The claims included one or more claims directed to a composition.

The specification explicitly incorporated by reference the contents of Japanese Patent application numbers 2004-127024 and 2005-122570.

A preliminary amendment to add drawings was filed on May 23, 2006. Petitioner stated, "The drawings submitted herewith are the same as those present in the Japanese priority documents submitted concurrently herewith."

On June 10, 2005, the Office mailed a Notice to File Missing Parts. The Notice listed the application's filing date as May 23, 2005.

On February 7, 2006, petitioner filed a Request for Corrected Filing Receipt.

On February 10, 2006, the Office mailed a response to petitioner's request. The response stated, "The filing date accorded to the application is the date the application met the filing date requirements of 37 CFR 1.53(b) and (c)."

Petitioner filed the instant petition on April 4, 2006.

The petition was filed under 37 CFR 1.57(a).

Discussion:

The application papers did not include drawings.

However, a review of the record indicates drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.[1]

MPEP 601.01(f) states that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications.

This application contains disclosure directed to a composition. Therefore, the application should have been accorded a filing date of April 22, 2005.

When one is not otherwise entitled to a filing date, an amendment seeking to add essential material must be filed with a petition. However, since the drawings are not necessary for a filing date, a petition is unnecessary to add the drawings.

The drawings may be added by amendment.

MPEP 201.06(c)(IV) states,

> The inclusion of [an] incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

The examiner will consider the amendment filed on May 23, 2006, in due course and will determine if the added material is new matter. See MPEP 608.02(a). The added material will not be new matter if the material was part of the material incorporated by reference.

The original application papers will include only those application papers present on the date of deposit.

A petition fee will not be charged to petitioner's deposit account.

The Office of Initial Patent Examination will process the application with a filing date of April 22, 2005, using only the application papers filed on April 22, 2005. Thereafter, the application will be forwarded to the examiner for consideration in due course.

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[1] During examination, if the examiner determines drawings are necessary under 35 USC 113, he may reconsider the filing date issue and have the Office of Initial Patent Examination (OIPE) mail a Notice of Incomplete Application. See MPEP 601.01(f).

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Hun-Jung Lee	: DECISION ON REQUEST FOR
Patent Number	: 7629738	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,106,824 :
Issue Date: September 12, 2006 :
Application No. 11/111,854 :
Filed: April 22, 2005 :
Attorney Docket No. 271191US2SX :

This is a decision on the petition filed November 16, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to add assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/111,892	04/22/2005	Shinzo Ohkubo	271343US90	6438

7590 06/04/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LE, UYEN CHAU N

ART UNIT	PAPER NUMBER
2887	

NOTIFICATION DATE	DELIVERY MODE
06/04/2008	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.

Nina Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
06/03/2008 0030056442

Credit Card Refund Total: $1300.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 06/03/2008 NFARMER
04/25/2005 JBALINAN 00000053 11111892
02 FC:1111 -500.00 OP
04 FC:1201 -800.00 OP

FORM PET651G (Rev. 08/07)

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OFFICE OF PETITIONS

In re Application of	:	
Fan	:	
Application No. 11/111,902	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. MR929-933/DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed September 30, 2005. Accordingly, this application became abandoned on December 31, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the August 25, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

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

[1] The Office acknowledges receipt of a change in entity status, filed January 10, 2005. Office records have been changed to reflect the new small entity status.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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In re Application of	:	
Hudson et al.	:	
Application Number: 11/111924	:	DECISION ON PETITION
Filing Date: 04/22/2005	:	
Attorney Docket Number: 10704-28 MIS:jb	:	

This is a decision on the petition filed on October 9, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on July 7, 2009, for failure to timely file a proper reply to the non-final Office action mailed on April 6, 2009, which set a three (3) month-shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

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

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

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

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

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

The Notice of Appeal filed on October 9, 2009, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This application is being referred to Technology Center Art Unit 1794 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of	:	
Viacheslav Usov, et al.	:	
Application No. 11/111,930	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. 101873.56484US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 5, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Crowell & Moring, LLP has been revoked by the assignee of the patent application on January 15, 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: GEORGE A PISARUK
15880 NORTH GREENWAY- HAYDENLOOP
SCOTTSDALE, AZ 85260

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

Mail Date: 04/21/2010

Applicant	: Hilmar Demant	: DECISION ON REQUEST FOR
Patent Number	: 7665083	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PATRICIA GRANADOS
ARENT FOX LLP
1050 CONNECTICUT AVENUE, NORTHWEST
WASHINGTON, DC 20036--533

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OFFICE OF PETITIONS

In re Application of	:	
Yamashita et al.	:	DECISION ON PETITION
Application No. 11/111,949	:	TO WITHDRAW
Filed: April 22, 2005	:	FROM RECORD
Attorney Docket No. 37808-0010	:	

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 9, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that all previous powers of attorney were revoked by the assignee of the patent application on May 18, 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 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MOTS LAW, PLLC
1629 K STREET N.W.
SUITE 602
WASHINGTON, DC 20006-1635

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

Mail Date: 04/20/2010

Applicant	: Jitesh Vallabh	: DECISION ON REQUEST FOR
Patent Number	: 7607582	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,964	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: David G. De Vorchik	: DECISION ON REQUEST FOR
Patent Number	: 7587411	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **314** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/111,972	04/22/2005	Paul A. Gusmorino	312049.01/MFCP.141060	6002

45809 7590 05/03/2010
SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER
SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
2174	

MAIL DATE	DELIVERY MODE
05/03/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SHOOK, HARDY & BACON, L.L.P.
(MICROSOFT CORPORATION)
Intellectual Property Department
2555 Grand Boulevard
Kansas City MO 64108

In re Application of: GUSMORINO, Paul et al. Appl. No.: 11/111,972 Filed: April 22, 2005 For: SYSTEM AND METHOD FOR SHELL BROWSER	**RESPONSE TO PETITION UNDER 37 CFR § 1.59**

This is a decision on the petition under 37 CFR § 1.59(b), filed February 7, 2008, to expunge privileged information inadvertently filed electronically with the Information Disclosure Statement on January 31, 2008.

The petition is **GRANTED**.

Petitioner states that "the submission to be expunged is marked, and appears with the description 'NPL Documents," and a page count of 19 pages. This filing includes the international search report [PCT/US06/26854] and the confidential communication requested to be expunged. The portion that was inadvertently submitted appears on pages 1-10 of that submission." Petitioner also requests "prompt removal of this information from the PTO's PAIR system and any hard copy file for this case is necessary to avoid irreparable harm." The petition fee set forth in 37 CFR § 1.17(f) and (g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is 571-272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist
Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/111,973	04/22/2005	Patrice L. Miner	312813.01/MFCP.143455	6004

45809 7590 04/30/2010
SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER
NGUYEN, CAO H

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
04/30/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SHOOK, HARDY & BACON, L.L.P.
(MICROSOFT CORPORATION)
Intellectual Property Department
2555 Grand Boulevard
Kansas City MO 64108

In re Application of:	:	
MINER, Patrice et al.	:	**RESPONSE TO PETITION**
Appl. No.: 11/111,973	:	**UNDER 37 CFR § 1.59**
Filed: April 22, 2005	:	
For: ADDRESS BAR USER INTERFACE CONTROL	:	

This is a decision on the petition under 37 CFR § 1.59(b), filed February 7, 2008, to expunge privileged information inadvertently filed electronically with the Information Disclosure Statement on January 31, 2008.

The petition is **GRANTED**.

Petitioner states that "the submission to be expunged is marked, and appears with the description 'NPL Documents," and a page count of 19 pages. This filing includes the international search report [PCT/US06/26854] and the confidential communication requested to be expunged. The portion that was inadvertently submitted appears on pages 1-10 of that submission." Petitioner also requests "prompt removal of this information from the PTO's PAIR system and any hard copy file for this case is necessary to avoid irreparable harm." The petition fee set forth in 37 CFR § 1.17(f) and (g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is 571-272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist
Technology Center 2100

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
JUL 20 2005
REEXAM UNIT

In re Application of	:	
Joseph W. Chambers, Sr., et al.,	:	DECISION ON PETITION
Appl. No. 11/111,975	:	TO WAIVE TWO MONTH
Filed April 22, 2005	:	DELAY PERIOD
Atty. Dock. No. A8913	:	

This is a decision on applicant's petition of May 26, 2005, titled "PETITION TO DIRECTOR UNDER 37 C.F.R. § 1.182 TO WAVE TWO-MONTH WAITING PERIOD AND ACT UPON REISSUE APPLICATION."

The petition is before the Office of Patent Legal Administration for decision.

For the reasons set forth below, the petition is granted.

DECISION

1. This application for reissue was filed on April 22, 2005. The announcement of the reissue filing was published in the *Official Gazette* (O.G.) on July 12, 2005. Office policy normally provides for a two-month delay in examination following the announcement of the filing in the *Official Gazette*. MPEP 1441. Applicant has requested via this petition waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement in the O.G.. Such waiver is requested in order that examination not be delayed in view of the facts set forth in the petition. Based on those facts, applicant's request will be accommodated and the petition granted.

2. The granting of petitioners' request does not close or remove the public's opportunity to protest the instant reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

If a protest is filed after the two month date:

MPEP 1901.04 provides as to protests, in general -

"A protest under 37 CFR 1.291(a) must be submitted prior to the date the application was published or the mailing of a notice of allowance under 37 CFR 1.311, whichever occurs first, and the application must be pending when the protest and application file are brought before the examiner in order to be ensured of consideration....A protest submitted after the mailing of the notice of allowance will not knowingly be ignored if the protest includes prior art documents which clearly anticipate or clearly render obvious one or more claims.... A protest filed after final rejection and complying with 37 CFR 1.291(a) will be considered if the application is still pending when the protest and application are provided to the examiner. However, prosecution will not ordinarily be reopened after final rejection if the prior art cited in the protest is merely cumulative of the prior art cited in the final rejection. If a protest is not submitted within the time period set forth in 37 CFR 1.291(a)(1) it will be acknowledged as set forth in MPEP § 1901.05 only if a self-addressed postcard is included with the protest, and referred to the examiner having charge of the subject matter involved for handling as set forth in MPEP § 1901.06....If, for some reason, the protest of the reissue application cannot be filed within the 2-month period provided by MPEP § 1441, the protest can be submitted at a later time, but the protestor must be aware that reissue applications are "special" and a later filed protest may be received after action by the examiner."

MPEP 1441.01 provides as to protests in reissue -

"Where the protest is submitted after the 2-month period, no petition for entry of the protest under 37 CFR 1.182 is needed with respect to the protest being submitted after the 2 months, unless a final rejection has been issued or prosecution on the merits has been closed for the reissue application. Where the protest is submitted after the 2-month period, the protest may be received after the first Office action by the examiner, since reissue applications are taken up "special." Once the first Office action is mailed (after the 2-month period), a member of the public may still submit pertinent information in the form of a protest under 37 CFR 1.291(a), and the examiner will consider the information submitted in the next Office action, to the extent that such consideration is appropriate."

3. In the event an early determination of allowable subject matter is made by the examiner and made known to applicants, the application will be retained in the Technology Center pending expiration of the two-month delay period, **prior to the mailing of a formal Notice of Allowance.**

CONCLUSION

1. The petition is granted.

2. The reissue proceeding is being forwarded to Technology Center 3700 for immediate examination as soon as practicable.

3. Any further questions regarding the matter of this decision should be directed to the undersigned, at (571) 272-7710.

4. Any questions relating to the merits of the application should be directed to the Supervisory Patent Examiner of the Art Unit to which the application is assigned, i.e., Derris H. Banks, at (571) 272-4419.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

7-20-05
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
JUL 20 2005
REEXAM UNIT

In re Application of	:	
Joseph W. Chambers, Sr., et al.,	:	DECISION ON PETITION
Appl. No. 11/111,976	:	TO WAIVE TWO MONTH
Filed April 22, 2005	:	DELAY PERIOD
Atty. Dock. No. A8912	:	

This is a decision on applicant's petition of May 26, 2005, titled "PETITION TO DIRECTOR UNDER 37 C.F.R. § 1.182 TO WAVE TWO-MONTH WAITING PERIOD AND ACT UPON REISSUE APPLICATION."

The petition is before the Office of Patent Legal Administration for decision.

For the reasons set forth below, the petition is granted.

DECISION

1. This application for reissue was filed on April 22, 2005. The announcement of the reissue filing was published in the *Official Gazette* (O.G.) on June 21, 2005. Office policy normally provides for a two-month delay in examination following the announcement of the filing in the *Official Gazette*. MPEP 1441. Applicant has requested via this petition waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement in the O.G.. Such waiver is requested in order that examination not be delayed in view of the facts set forth in the petition. Based on those facts, applicant's request will be accommodated and the petition granted.

2. The granting of petitioners' request does not close or remove the public's opportunity to protest the instant reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

If a protest is filed after the two month date:

MPEP 1901.04 provides as to protests, in general -

"A protest under 37 CFR 1.291(a) must be submitted prior to the date the application was published or the mailing of a notice of allowance under 37 CFR 1.311, whichever occurs first, and the application must be pending when the protest and application file are brought before the examiner in order to be ensured of consideration....A protest submitted after the mailing of the notice of allowance will not knowingly be ignored if the protest includes prior art documents which clearly anticipate or clearly render obvious one or more claims.... A protest filed after final rejection and complying with 37 CFR 1.291(a) will be considered if the application is still pending when the protest and application are provided to the examiner. However, prosecution will not ordinarily be reopened after final rejection if the prior art cited in the protest is merely cumulative of the prior art cited in the final rejection. If a protest is not submitted within the time period set forth in 37 CFR 1.291(a)(1) it will be acknowledged as set forth in MPEP § 1901.05 only if a self-addressed postcard is included with the protest, and referred to the examiner having charge of the subject matter involved for handling as set forth in MPEP § 1901.06....If, for some reason, the protest of the reissue application cannot be filed within the 2-month period provided by MPEP § 1441, the protest can be submitted at a later time, but the protestor must be aware that reissue applications are "special" and a later filed protest may be received after action by the examiner."

MPEP 1441.01 provides as to protests in reissue -

"Where the protest is submitted after the 2-month period, no petition for entry of the protest under 37 CFR 1.182 is needed with respect to the protest being submitted after the 2 months, unless a final rejection has been issued or prosecution on the merits has been closed for the reissue application. Where the protest is submitted after the 2-month period, the protest may be received after the first Office action by the examiner, since reissue applications are taken up "special." Once the first Office action is mailed (after the 2-month period), a member of the public may still submit pertinent information in the form of a protest under 37 CFR 1.291(a), and the examiner will consider the information submitted in the next Office action, to the extent that such consideration is appropriate."

3. In the event an early determination of allowable subject matter is made by the examiner and made known to applicants, the application will be retained in the Technology Center pending expiration of the two-month delay period, **prior to the mailing of a formal Notice of Allowance**.

CONCLUSION

1. The petition is granted.

2. The reissue proceeding is being forwarded to Technology Center 3700 for immediate examination as soon as practicable.

3. Any further questions regarding the matter of this decision should be directed to the undersigned, at (571) 272-7710.

4. Any questions relating to the merits of the application should be directed to the Supervisory Patent Examiner of the Art Unit to which the application is assigned, i.e., Derris H. Banks, at (571) 272-4419.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

7-20-05
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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Shuichi Tomabechi	: DECISION ON REQUEST FOR
Patent Number	: 7598106	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **459** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paul Marcoux
c/o Labopharm Inc.,
480 Boul Armand-Frappler
Laval, Quebec H7V 4-84 CA CANADA

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APR 18 2006

OFFICE OF PETITIONS

In re Application of :
Vincent LENAEERTS et al. :
Application No. 11/111,996 :
Filed: April 22, 2005 :
Attorney Docket No. TRAMA-022-US :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 6, 2006, requesting expedited consideration of the petition under 37 CFR 1.137(b) filed March 3, 2006, and resubmitted April 3, 2006.

The petition is **GRANTED**.

A decision on the petition under 37 CFR 1.137(b) will be expedited.

Petitioner is not the Attorney of Record in the above-identified application. Furthermore, petitioner did not submit the petition under 37 CFR 1.137(b). Accordingly, petitioner will not receive a copy of the decision of the petition submitted under 37 CFR 1.137(b). 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 David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

CC: Goodwin Procter LLP
Exchange Place
Boston, MA 02109

2 4 MAR 2010

United States Patent and Trademark Office

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United States Patent and Trademark Office
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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

In re Application of	:	
LENAERTS et al	:	DECISION ON
Application No.: 11/111,996	:	PETITION UNDER
Filing Date: April 22, 2005	:	37 CFR 1.78(a)(3) AND
Attorney Docket No.: TRAMA-022-US	:	37 CFR 1.78(a)(6)
For: Controlled-Release Compositions	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed March 28, 2008 to accept an unintentionally delayed claim under 35 U.S.C. 120 and 35 U.S.C. 365(c) for the benefit of priority to the prior-filed international application PCT/CA2003/001637, filed October 27, 2003, and the concurrently filed petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to prior filed provisional applications 60/510,000 and 60/509,062, filed October 10, 2003 and October 25, 2002, respectively, as set forth in the Application Data Sheet (ADS) filed on March 28, 2008.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in 37 CFR 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an ADS as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a statement of unintentional delay. 37 CFR 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement contained in the petition varies from the required

language, the statement will be construed as the statement required by 37 CFR 1.78(a)(3) and 1.78(a)(6). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to George Dombroske at (571) 272-3283. 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 1612 for appropriate action, including consideration by the examiner of the claim for benefit of the prior-filed applications.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Edgar Pawlowski	: DECISION ON REQUEST FOR
Patent Number	: 7662544	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/111,998	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **684** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Attorney's Docket No. 72501.010100CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DORWARD, William Donald Charles

Serial No.: **11/112,005**

Filed : **April 22, 2005**

For : **WATER PURIFICATION APPARATUS AND METHOD OF USING THE SAME**

Group Art Unit: ~~1724~~ 1723

Examiner: **Unknown** Drodye

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PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)(1)

Total Pages: 2

Mail Stop Petition
COMMISSIONER FOR PATENTS
P. O. Box 1450
Alexandria, VA 22313-1450

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING SENT THIS 2nd DAY OF NOVEMBER 2005 VIA FACSIMILE TRANSMISSION TO THE UNITED STATES PATENT AND TRADEMARK OFFICE TO FACSIMILE NO. 571-273-8300.

BY Paul R. Mahan
PAUL R. MAHAN

Sir:

Applicant respectfully requests that the above-identified application be advanced out of turn for examination based on Applicant's age. A signed letter from Applicant William Donald Charles Dorward declaring his date of birth of September 30, 1936 is attached hereto.

Pursuant to 37 C.F.R. § 1.102(c), no fee is believed to be required with this Petition. However, the Commissioner is authorized to charge any deficiencies or credit any overpayment to Deposit Account 50-0653.

Respectfully submitted,

James E. Goepel
Reg. Number 50,851

Greenberg Traurig, LLP
1750 Tysons Blvd, 12th Floor
McLean, Virginia 22102
703-749-1300
703-749-1301 (fax)

November 2, 2005

JEG:prm

Customer No. 22191

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PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
JAN 1 8 2006

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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MAR 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Rocci et al. :
Application No. 11/112,006 :
Filed: April 4, 2005 :
Attorney Docket No. 2094.0090002 :
For: Apparatus, System, and Methods :
for Status Monitoring and Control ... :

Decision Refusing to Accord
Status Under 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed November 17, 2005.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. 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 current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (2) set forth above. The "Declaration for Patent Application" does not list the inventors' names, citizenship, or addresses. Even though Specht has is signing the declaration on behalf of the inventors, the information for the inventor's must still be provided within the declaration. A new declaration should be submitted.

The current petition fee for a petition under 37 CFR 1.47(b) is $200. Petitioner submitted $130 for the fee. Therefore, $70 has been charged to petitioner's deposit account for the remainder of the 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 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

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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In re Application of :
Rocci et al. :
Application No. 11/112,006 :
Filed: April 4, 2005 :
Attorney Docket No. 2094.0090002 :
For: Apparatus, System, and Methods :
for Status Monitoring and Control ... :

Decision According
Status Under 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 1, 2006.

The petition is **granted**.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 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 Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Yamamoto et al.	:	
Application No. 11/112,007	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 1417-504	:	
Title: Release Agent And Release Sheet	:	

This is a decision on the petition under 37 CFR 1.182, filed on August 2, 2005, to change the name of the co-inventor for the above-identified application.

The petition is **GRANTED**.

The name of the sixth co-inventor will be changed from "Maki Kunitake" to **–Maki Saito--**.

The current petition fee for petitions under 37 CFR 1.182 is $400.00. Accordingly $270.00 will be charged to deposit account no. 14-1140.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Paul Marcoux
c/o Labopharm Inc.
480, Boul. Armand-Frappier
Laval QC H7V 4B4
CANADA

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Lenaerts et al.	:	DECISION ON
Application No. 11/112,008	:	PETITION
Filed: April 22, 2005	:	
Atty Docket No. TRAMA-021-US	:	

This is a decision on the PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION FOR PATENT UNDER 37 CFR 1.137(b) filed March 3, 2006.

The petition is **DISMISSED AS MOOT**.

The above-identified application is not abandoned. A NOTICE TO FILE MISSING PARTS OF APPLICATION was mailed June 1, 2005. This Notice set a two-month time limit for response. However, on February 22, 2006, the Office mailed a WITHDRAWAL OF PREVIOUSLY SENT NOTICE, withdrawing the Notice mailed June 1, 2005. Accompanying the withdrawal was a corrected NOTICE TO FILE MISSING PARTS OF APPLICATION. This corrected Notice mailed February 22, 2006 set a new two-month time limit for response, with extensions of time obtainable under § 1.136(a).

With the instant petition filed March 3, 2006, applicants timely filed a response to the February 22, 2006 Notice.

Given that this application is not abandoned, consideration of the petition under § 1.137(b) is unnecessary. Accordingly, a

request has been made to the Office of Finance to refund the petition fee.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application file is thereby forwarded to OIPE for completion of pre-examination processing, including processing of the response filed March 3, 2006 to the February 22, 2006 Notice.

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
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Paper No.

Paul Marcoux
c/o Labopharm Inc.
480, Boul. Armand-Frappier
Laval QC H7V 4B4
CANADA

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AUG 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Lenaerts et al.	:	DECISION ON
Application No. 11/112,008	:	PETITION
Filed: April 22, 2005	:	
Atty Docket No. TRAMA-021-US	:	

This is a decision on the PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION FOR PATENT UNDER 37 CFR 1.137(b) filed April 3, 2006.

By decision mailed March 27, 2006, the previous petition to revive filed March 3, 2006 was dismissed as moot. Petitioner was advised that the application was not abandoned. It is unclear whether petitioner received this decision before filing the instant paper. However, it is noted that the instant paper includes an additional communication dated April 3, 2006, stating that "according to our records, this Application stands abandoned." In view thereof, a further response is appropriate.

The petition to revive is properly **DISMISSED AS MOOT**.

For the reasons stated in the decision mailed March 27, 2006, the above-identified application is not abandoned. Thus, no petition to revive is necessary. To ensure completeness of petitioner's records as to this matter, a copy of the "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" mailed February 22, 2006 is enclosed.

No petition fee is required and none has been charged.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application file is again forwarded to OIPE for completion of pre-examination processing, including processing of the response filed March 3, 2006 to the February 22, 2006 Notice.

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 "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" mailed February 22, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,008	04/22/2005	Vincent Lenaerts	TRAMA-021-US

CONFIRMATION NO. 5915

WITHDRAWAL NOTICE

Paul Marcoux
c/o Labopharm Inc.
480, Boul. Armand-Frappier
Laval, QC H7V 4B4
CANADA

Date Mailed: 02/22/2006

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice mailed on 06/01/2005 was sent in error and is hereby withdrawn. A corrected Notice is enclosed. The time period for reply runs from the mail date of the corrected Notice. The Office regrets any inconvenience the error may have caused.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 3 - OFFICE COPY

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1 3 AUG 2008

LABOPHARM, INC.
480 ARMAND-FRAPPIER BLVD.
LAVAL, QUEBEC
CANADA H7V 4B4

In re Application of	:	
LENAERTS et al	:	DECISION ON PETITIONS
Application No.: 11/112,008	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: April 22, 2005	:	AND 37 CFR 1.78(a)(6)
Attorney Docket No.: TRAMA-021-US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 35 U.S.C. 365(c) for the benefit of priority to the prior-filed international application PCT/CA2003/001638, filed October 27, 2003, and the concurrently filed petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to prior filed provisional applications 60/510,378 and 60/509,062, filed October 10, 2003 and October 25, 2002, respectively, as set forth in the preliminary amendment filed with the instant petitions.

The petitions are **DISMISSED**.

MPEP 201.11, Section II. A., states in relevant part,

> Applicant may claim the benefit of a provisional application by claiming the benefit of an intermediate copending nonprovisional application. The later-filed application must claim the benefit of the intermediate nonprovisional application under 35 U.S.C. 120, 121, or 365(c); the intermediate application must be filed not later than 12 months after the filing date of the provisional application; and both the later-filed application and the intermediate application must claim the benefit of the provisional application under 35 U.S.C. 119(e). (Emphasis added.)

Furthermore, MPEP 201.11, Section III. C., states in relevant part,

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. . . . Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. (Emphasis added.)

37 CFR 1.78(a)(5)(i) states,

> Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number). (Emphasis added.)

In the present case, international application PCT/CA2003/001638 did not make a proper reference to provisional application 60/509,062. Although the international application contained a reference to non-provisional application 10/281,026, which was later converted to a provisional application, 37 CFR 1.78(a)(5)(i) specifically requires identification of the series code and serial number of the provisional application. Accordingly, because the intermediate application (i.e. the international application) did not properly claim the benefit of provisional application 60/509,062, the amendment to the specification filed with the instant petitions is not proper at the present time.

Before the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted in the present application, international application PCT/CA2003/001638 must be amended to contain a proper reference to provisional application 60/509,062.[1] Such amendment must be in compliance with 37 CFR 1.121 or in the form of an application data sheet under 37 CFR 1.76.

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
401 Dulany Street, Randolph Building
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration / Office of Petitions

[1] Because international application PCT/CA2003/001638 is presently abandoned as to the United States, a petition under 37 CFR 1.137 in international application number PCT/CA2003/001638 would be required.

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14 NOV 2008

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

In re Application of LENAERTS et al	:	
PCT Application No.: PCT/CA2003/001638	:	
Int. Filing Date: 27 October 2003	:	DECISION
Priority Date Claimed: 25 October 2002	:	
Attorney Docket No.: TRAMA-021	:	
For: SUSTAINED-RELEASE TRAMADOL	:	
FORMULATIONS WITH 24-HOUR EFFICACY	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 11 September 2008.

BACKGROUND

On 27 October 2003, applicant filed international application PCT/CA2003/001638, which claimed priority of an earlier United States application filed 25 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 06 May 2004. The thirty-month period for paying the basic national fee in the United States expired on 25 April 2005.

On 26 April 2005, international application PCT/CA2003/001638 became abandoned as to the United States for failure to timely pay the basic national fee.

On 11 September 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the requisite $310.00 basic national fee will be charged to Deposit Account No. 07-1700 as authorized in the petition.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

International application PCT/CA2003/001638 is being revived for purposes of entry of the Application Data Sheet (ADS) filed with the petition, and since entry of the ADS has been effected, international application PCT/CA2003/001638 is again abandoned as to the United States.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

In re Application of	:	
LENAERTS et al	:	DECISION ON PETITIONS
Application No.: 11/112,008	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: April 22, 2005	:	AND 37 CFR 1.78(a)(6)
Attorney Docket No.: TRAMA-021-US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 35 U.S.C. 365(c) for the benefit of priority to the prior-filed international application PCT/CA2003/001638, filed October 27, 2003, and the concurrently filed renewed petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to prior filed provisional applications 60/510,378 and 60/509,062, filed October 10, 2003 and October 25, 2002, respectively, as set forth in the Application Data Sheet (ADS) filed on March 28, 2008.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an ADS as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303. 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 1615 for appropriate action, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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Mrs. Alpha Collett
Apt. 115
Chasteen St.
Middlesboro, KY 40965

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OFFICE OF PETITIONS

In re Application of Collett and Rogers :
Application No. 11/112,011 : Decision on Petition
Filing Date: April 21, 2005 :
For: Color Changeable Sandals :

This is a decision on the petition filed February 23, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The petition is not signed by all of the inventors, a registered patent attorney, a registered patent agency, or an assignee of record. In fact, the petition is not signed by any individual. The merits of the petition will not be considered until a properly signed petition is filed. Therefore, the petition must be dismissed at this time.

The petition was filed by Inventor Collett. If an inventor wishes to prosecute an application, papers filed by the inventor must be signed by the inventor. In addition, the papers *must* be signed by all the other inventors unless the other inventors have given the inventor authority to sign papers on their behalf.

A petition including Collett's signature should be filed. If desired, petitioner may simply add Collett's signature to a copy of the petition filed February 23, 2009, and submit the new signed copy of the petition. The petition *must* also be signed by inventor Rogers unless accompanied by written and signed authorization giving Collett authority to sign papers on behalf of Rogers. The written authorization does not need to take any particular form. However, petitioner *may* wish to have each of the other inventors sign a paper stating,

> I, Tunya Rogers, hereby give Alpha Collett, a joint inventor in this application, authorization sign papers and transact all business on my behalf connected with Application No. 11/112,011.

The papers filed February 23, 2009, include a request to change the address of record to:

Mrs. Alpha Collett
Apt. 115
Chasteen St.
Middlesboro, KY 40965

The paper requesting the change of address is not signed by either inventor. Therefore, the address will not be changed at this time. In order to have the address changed, a request signed by Collett must be filed. The request must also be signed by Rogers unless accompanied by written and signed authorization giving Collett authority to sign papers on behalf of Rogers.

As a courtesy, the instant decision is being sent to the new address listed in the February 23, 2009 papers. However, unless a proper request to the change the address of record is filed, future papers will *not* be mailed to the new address.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Mrs. Alpha Collett
Apt. 115
Chasteen St.
Middlesboro, KY 40965

In re Application of Collett and Rogers :
Application No. 11/112,011 : Decision on Petition
Filing Date: April 21, 2005 :
For: Color Changeable Sandals :

This is a decision on the petition filed May 26, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The application was filed April 21, 2005. The declaration signed by both inventors included a correspondence address ("Address 1"). Specifically, the declaration stated correspondence should be sent to:

Mrs. Alpha A. Collett
306 Club Drive
Sevierville, TN 37862

The Office mailed a Notice to File Corrected Application Papers on May 17, 2005, to the address set forth above. The Notice set an extendable time period for reply of two months.

On August 22, 2005, petitioner filed an unsigned reply to the May 17, 2005 Notice. Although the reply included payment for a one-month extension of time, payment for a two-month extension of time would have been necessary in order for the reply to be timely.

The papers filed August 22, 2005, included a request for a change to the correspondence address of record. The papers requested the correspondence address be changed to:

Mrs. Alpha A. Collett
P.O. Box 6762
Seveirville, TN 37864

Despite the fact the papers filed August 22, 2005, did not contain the signature of even one of the two inventors, the Office changed to the address of record to the address listed above.

On January 11, 2006, the Office mailed a non-final Office action to the address that had been included in the papers filed August 22, 2005 ("Address 2"). The Office action set an extendable, shortened statutory period for reply of three months.

The Office received a "Change of Correspondence Address" form on January 18, 2006. The form requested the address be changed to:

Mrs. Alpha A. Collett
Apt. #1
232 Bruce St.
Sevierville, TN 37862

The form was only signed by inventor Collett. The form does not indicate the date the form was mailed which might not be the same as the date the form was signed. However, the signature on the form is dated January 6, 2006. Therefore, the form must have been mailed on or after January 6, 2006, but before January 18, 2006.

The Office did not change the address of record to the address in the January 18, 2006 letter ("Address 3").

The petition asserts, even though the non-final Office action was mailed to the "old" address (Address 2), the Office action was received. However, the petition also asserts the Office action "was received late."

Petitioner filed a reply to the non-final Office action on April 14, 2006. The first page of the reply stated the Office action was received by applicant on January 14, 2006. Therefore, the non-final Office action was received by petitioner only *three* days after the Office action was mailed. The reply filed April 14, 2006, was not signed by either inventor.

Since the January 11, 2006 Office action set a time period for reply of three months, a reply was due on or before Tuesday, April 11, 2006, absent payment for an extension of time. The reply filed April 14, 2006, was not accompanied by payment for an extension of time. Therefore, the reply was untimely.

On April 19, 2009, the Office mailed a Notice titled, "Notice Requiring Extension of Time Fee [and] No New Time Period is Provided." The Notice informed petitioner the reply filed April 14, 2006, was filed after the expiration of the three-month time period and stated,

> This application will become ABANDONED unless applicant obtains an extension of time ... within the maximum extendable period for reply.

The April 19, 2006 Notice was mailed to Address 2.

Paragraph III of the petition states the April 19, 2006 Notice was received. However, Paragraph V of the petition states the Notice was not received and asserts the Notice was returned by the USPS to the Office undelivered. Office records do not indicate the USPS returned the Notice undelivered to the Office.

The Office mailed a Notice of Abandonment on May 10, 2007. Petitioner alleges the Notice of Abandonment was never received and asserts the Notice of Abandonment was returned to the Office undelivered by the USPS. Office records confirm the Notice of Abandonment was returned to the Office undelivered by the USPS.

Petitioner states petitioner did not become aware of the abandonment of the application until January 26, 2009.

A petition to withdraw the holding and a request to change the address or record were filed February 23, 2009.

A decision dismissing the February 23, 2009 petition, was mailed on May 8, 2009. The decision stated,

> The petition is not signed by all of the inventors, a registered patent attorney, a registered patent agency, or an assignee of record. In fact, the petition is not signed by any individual. The merits of the petition will not be considered until a properly signed petition is filed. Therefore, the petition must be dismissed at this time.
>
> The petition was filed by Inventor Collett. If an inventor wishes to prosecute an application, papers filed by the inventor must be signed by the inventor. In addition, the papers *must* be signed by all the other inventors unless the other inventors have given the inventor authority to sign papers on their behalf....
>
> The papers filed February 23, 2009, include a request to change the address of record to:
>
> Mrs. Alpha Collett
> Apt. 115
> Chasteen St.
> Middlesboro, KY 40965
>
> The paper requesting the change of address is not signed by either inventor. Therefore, the address will not be changed at this time.

The instant petition was filed May 26, 2009.

Discussion

Petitioner alleges the Office mailed the January 11, 2006 non-final Office action to an incorrect address. However, the record fails to support such a conclusion.

The Office was responsible for mailing correspondence to the address of record (Address 2) until receiving proper instructions to change the address of record. At the time the Office action was mailed, the Office had not received any instructions to change the address of record. In fact, the Office did not receive such instructions until January 18, 2006.

Even if petitioner could prove the change the address of record was received by the Office prior to January 11, 2006, instead of on January 18, 2006, the petition could not be granted because the request was an improper request to change the address. Although the request was signed by inventor Collett, the request was not signed by inventor Rogers and petitioner had not filed any paper in the case signed by Rogers giving Collett permission to sign on her behalf.

Since the request to change the address was received after the non-final Office action was mailed and was not properly signed, the fact the Office mailed the Office action to Address 2 does not support withdrawal of the holding of abandonment.

The Office is unclear as to whether or not petitioner is asserting the Notice mailed April 19, 2006 was never received. Paragraph III of the petition states the April 19, 2006 Notice was received. However, Paragraph V of the petition states the Notice was not received and asserts the Notice was returned by the USPS to the Office undelivered. Office records do not indicate the USPS returned the Notice undelivered to the Office.

In some cases, the holding of abandonment may be withdrawn based on proof of non-receipt of a Notice or Office action. However, the instant situation is not such a case. The instant situation does not involve the USPS failing to properly deliver correspondence. If the USPS returned the Notice undelivered to the Office because Address 2 was no longer a current mailing address for petitioner, then the USPS acted properly. Any failure by petitioner to receive the Notice appears to be the result of petitioner failing to file a proper request to change the address to Address 3. The Office will not withdraw the holding of abandonment when non-receipt of a Notice or Office action is the result of a party's failure to properly file a request to change the address of record.

Even if petitioner were able to prove a proper request to change the address to Address 3 had been filed, the holding of abandonment would not be withdrawn. In this case, the application became abandoned as a result of petitioner's failure to properly and timely reply to the January 11, 2006 Office action. The application did not become abandoned due to a failure by petitioner to properly or timely reply to the April 19, 2006. The April 19, 2006 Notice was a notice informing petitioner the reply filed April 14, 2006, was not a timely reply. Non-receipt of the April 19, 2006 simply resulted in petitioner not being notified at that time that the April 14, 2006 was deficient. Proof the Office failed to advise petitioner of the deficiency in sufficient time to permit petitioner take corrective action is insufficient to demonstrate the holding of abandonment should be withdrawn.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (a reply to the January 11, 2006 Office action), the required petition fee ($810 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a PDF "fillable" version of a petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,511,720 Issued: March 31, 2009 Application No. 11/112,015 Filed: April 22, 2005 Attorney Docket No. 07844-0366002 / P341	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed May 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred fifty-three (353) days to four hundred forty-six (446) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 31, 2009, the above-identified application matured into US Patent No. 7,511,720 with a patent term adjustment of 353 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 93 days of patent term adjustment due to exceeding three year pendency.

The 93-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 22, 2005 and a request for continued examination (RCE) having being filed on July 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 93 day period, they are entitled to a period of

adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 426 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 73 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 (93 days) and the period of Examination Delay (426 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 519 days, which includes the period of Three Year Delay (93 days) and the period of Examination Delay (426 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 446 days (93 + 426 reduced by 0 overlap – 73 (applicant delay)).

The Office agrees that as of the filing of the RCE on July 24, 2008, the application was pending three years and 93 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 426 days for examination delay was entered. At issue is whether patentees should accrue 93 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 426 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 93 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 22, 2005, to the date the RCE was filed on July 24, 2008. Prior to the filing of the RCE, 426 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 93 days for Office delay in issuing the patent overlap with the 426 days of Office delay. During that time, the issuance of the patent was delayed by 426 days, not 426 + 93 days. The Office experienced 426 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 426 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 93 days. The Office did not delay 426 days and then an additional 93 days. Accordingly,

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

426 days of patent term adjustment (not 426 and 93 days) was properly entered since the period of delay of 93 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 426 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 426 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 93 days over three years to the filing of the RCE.

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 353 days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
ALAN MARTIN GILKES	:	DECISION ON PETITION
SERIAL NO.: 11/112,018	:	UNDER 37 CFR 1.181
FILED: April 22, 2005	:	
FOR: APPARATUS AND METHODS TO SHARE TIME AND FREQUENCY DATA BETWEEN A HOST PROCESSOR AND A SATELLITE POSITIONING SYSTEM RECEIVER		

This is a decision on the petition filed December 15 and 17, 2008 under 37 CFR 1.181 to invoke the supervisory authority of the Commissioner to withdraw the restriction requirement of the office action mailed July 21, 2008 and made final in the office action mailed September 26, 2008.

The Petition is GRANTED.

On July 21, 2008 a restriction was made identifying 8 Groups of inventions: (I) claims 4, 6-8, (II) claims 9, 12-13, (III) claims 14-15, 26-29, (IV) claim 16, (V) claims 17-19, (VI) claim 20, (VII) claim 21, (VII) claim 22.

Applicant elected with traverse Group (III) claims 14-15 and 26-29.

Petitioner argues that there would be no serious burden to examine all of the groups of claims together without making a restriction. Particularly, petitioner argues all of the non-elected claims are now based on subject matter that has previously been examined and found allowable.

Petitioner is convincing that there is no serious burden. The current restriction requirement is withdrawn. The application is being returned to the examiner to act on all claims.

Any questions regarding this decision should be directed to Thomas Tarcza, Supervisory Patent Examiner, at (571) 272-6979.

Katherine A. Matecki

Katherine A. Matecki, Director
Technology Center 3600
571-272-5250

tht/: 2-13-2009

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THELEN REID & PRIEST LLP
P. O. BOX 640640
SAN JOSE, CA 95164-0640

In re Application of	:	
Keith Cocita	:	
Application No. 11/112,020	:	DECISION ON PETITION
Filed: April 21, 2005	:	TO WITHDRAW
Attorney Docket No. 035826-036	:	FROM RECORD
	:	

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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Thelen, Reid & Priest, LLP has been revoked by the assignee of the patent application on November 6, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEITH L. COCITA
PATENT LAW PROFESSIONALS
1762 TECHNOLOGY DRIVE
SUITE 112
SAN JOSE, CA 95110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,020	04/21/2005	Keith Cocita	035826-036

CONFIRMATION NO. 5662

OC000000021763429

OC000000021763429

Thelen Reid & Priest LLP
P. O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 12/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/06/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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REALNETWORKS, INC. C/O STOEL RIVES LLP
201. S MAIN STREET, SUITE 1100
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Bryna L. Bank	: DECISION ON REQUEST FOR
Patent Number	: 7617296	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,021	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1052** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Andrew Jaffray	: DECISION ON REQUEST FOR
Patent Number	: 7647128	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,026	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 05/18/2010

Applicant : Andrew Jaffray
Patent Number : 7647128
Issue Date : 01/12/2010
Application No : 11/112,026
Filed : 04/22/2005

: 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 **1078** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

Mail Date: 06/18/2010

Applicant	: Ryan S. Russell	: DECISION ON REQUEST FOR
Patent Number	: 7647621	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/112,032	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Noah Horton	: DECISION ON REQUEST FOR
Patent Number	: 7603482	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,040	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

In re Application of
Brian R. Lieuallen, et al.
Application No. 11/112,042
Filed: April 22, 2005
Attorney Docket No. 312436.01

ON PETITION

This is a decision in response to the petition, filed October 2, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 11, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 12, 2008. A Notice of Abandonment was mailed on August 4, 2009. On October 2, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2416 for appropriate action by the Examiner in the normal course of business on the amendment received October 2, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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KENNETH E. LEEDS
P.O. BOX 2819
SUNNYVALE, CA 94087-0819

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In re Application of	:	
David Treves et al	:	
Application No. 11/112,044	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. K2004020	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor David Treves 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 2878 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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William E. Hunter
FISH & RICHARDSON, P.C.
12390 El Camino Real
San Diego, CA 92130

In re Application of: Wolrich et al.	)	
Application No. 11/112,047	)	*PETITION FILED UNDER **37 CFR***
Attorney Docket No. 10559/696002/P13305D	)	***1.48(a)** TO ADD AN INVENTOR TO THE*
Filed: April 22, 2005	)	*APPLICATION*
Title: MEMORY INTERLEAVING	)	
	)	

In the papers filed on October 26, 2005, the applicants submitted a petition under 37 CFR 1.48(a) requesting correction of the inventorship. In the petition, the applicants requested that Matthew Adiletta be added as one of the inventors of the instant application. The petition included the following information in support of the petition:

(1) A request to correct the inventorship setting forth the desired inventorship change;
(2) Statements from Gilbert Wolrich, Mark B. Rosenbluth and Matthew Adiletta that the error in inventorship occurred without deceptive intention on their part;
(3) An oath or declaration by the actual inventors as required by § 1.63;
(4) The processing fee set forth in § 1.17(i); and
(5) The written consent of the assignee (see § 3.73(b)).

However, a review of the application reveals that the papers filed October 26, 2005 are not in compliance with 37 CFR 1.48(a). It is unclear whether the written consent of the assignee was signed due to the poor quality of the transmission. Therefore, the inventorship of this application has not been changed.

The petition is hereby DISMISSED.

Inquiries to this decision may be directed to Supervisory Patent Examiner Reginald Bragdon at (571) 272-4204.

Reginald Bragdon

Reginald D. Bragdon

Supervisory Patent Examiner
Art Unit 2189
Technology Center 2100
Computer Architecture, Software, and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/112,047	04/22/2005	Gilbert Wolrich	10559-696002/P13305D	4915

20985 7590 07/23/2008
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
DINH, NGOC V

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
07/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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WILLIAM E. HUNTER
FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO CA 92130

In re Application of: Gilbert Wolrich et al.	)	
Application No. 11/112,047	)	*PETITION FILED UNDER 37 CFR*
Attorney Docket No. 10559-	)	***1.48(a)** TO ADD AN INVENTOR TO THE*
696002/P13305D	)	*APPLICATION*
Filed: April 22, 2005	)	
Title: MEMORY INTERLEAVING	)	

In the papers filed on April 30, 2008, the applicants submitted a renewed petition under 37 CFR 1.48(a) requesting correction of the inventorship. In the petition, the applicants requested that Matthew Adiletta be added as an inventor of the instant application. The petition included the following information in support of the petition:

(1) A request to correct the inventorship setting forth the desired inventorship change;
(2) Statements from Gilbert Wolrich, Mark B. Rosenbluth, and Matthew Adiletta that the error in inventorship occurred without deceptive intention on their part;
(3) An oath or declaration by the actual inventors as required by § 1.63;
(4) The written consent of the assignee (see § 3.73(b)).

In view of the papers filed April 30, 2008, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Matthew Adiletta.

The petition is hereby GRANTED.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Inquiries to this decision may be directed to Supervisory Patent Examiner Reginald Bragdon at (571) 272-4204.

Reginald Bragdon

Reginald D. Bragdon

Supervisory Patent Examiner
Art Unit 2189
Technology Center 2100
Computer Architecture, Software, and Information Security

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of
Pero, Sherris, Chaplin, Pettit, and Lippert
Application No.: 11/112,055
Filed: April 22, 2005
Attorney Docket No: 18217-509CON2
For: Compositions and Methods for Use in Targeting Vascular Destruction

: ON PETITION AND
: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 2, 2006. This is also a decision on the petition under 37 CFR 1.47(a), filed January18, 2006.

The petition under 37 CFR 1.181 is GRANTED.

The petition under 37 CFR 1.47(a) is also GRANTED.

TRETAMENT UNDER 37 CFR 1.181

The record reveals that a "Notice to File Missing Parts of Nonprovisional Application" was mailed on June 14, 2005, allowing a shortened period for reply of two-months from its mailing date. A petition under 37 CFR 1.47(a) was filed on January 18, 2006, with a request for an extension of time within the fifth month, extending the period for response to January 17, 2006. No certificate of mailing was found with the petition. The application was held abandoned January 18, 2006, for failure to file a timely response to the notice of June 14, 2005.

In the instant petition, petitioner maintains that a timely response was filed to the "Notice to File Missing Parts of Nonprovisional Application" in the form of a petition under 37 CFR 1.47(a) and that, although the petition was not accompanied by a certificate of mailing under 37 CFR 1.8, the petition was deposited on with the United States Postal Service, Express Mail Service on January 17, 2006, and should received the benefit of that that date pursuant to 37 CFR 1.10. Petitioner provided a copy of the Office date-stamped postcard that accompanied the petition under 37 CFR 1.47(a); the postcard notes an Express Mail receipt number of EV538962395US. This is the same number found on the copy of the "Express Mail" receipt noting a date-in of January 17, 2006.

Petitioner has established that the petition under 37 CFR 1.47(a) was deposited with Express Mail on January 17, 2006. The petition was, therefore, timely and the holding of abandonment is withdrawn.

TREATMENT UNDER 37 CFR 1.47(a)

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 22, 2005, and was not accompanied by an executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 14, 2005, allowing an extendable period for reply of two months from its mailing date. The notice required an executed oath or declaration to be filed. On January 18, 2006, the instant petition was filed, along with a declaration executed all joint inventors, except inventor Pero.

Petitioner has shown that inventor Pero cannot be located to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination 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

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ALEXANDRIA, VA 22313-1450
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Paper No. None

FARJAMI & JARJAMI LLP
Suite 360
26522 La Alameda Avenue
Mission Viejo CA 92691

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Elim Huang and Xun Xie
Application No. 11/112,065
Filed: April 22, 2005
Attorney Docket Number: 0190236
Title: DEVICES AND METHODS FOR CONVERTING A DIGITAL SIGNAL INTO AN ANALOG SIGNAL

DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed July 5, 2005.

The above-identified application was filed on April 22, 2005, identifying Elim Huang and Xun Xie as joint inventors. The declaration which was submitted on filing was executed only by Elim Huang. On May 16, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same. The notice set a two-month period for response.

With the present petition, Petitioner has submitted the petition fee, and the associated surcharge, as well as a statement of facts and a print-out of a federal express tracking report which

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.

establishes that delivery of the copy of the application which was sent to the non-signing inventor was refused.

Petitioner has met requirements (1) – (4) above.

Regarding the fifth requirement, the declaration is not in compliance with 37 C.F.R. 1.63, in that the declaration fails to list the mailing address, the residential address, and the citizenship for the non-signing inventor.

As such, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the 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[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

4 (571) 273-8300- please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

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Paper No. None

FARJAMI & JARJAMI LLP
Suite 360
26522 La Alameda Avenue
Mission Viejo CA 92691

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of
Elim Huang and Xun Xie
Application No. 11/112,065
Filed: April 22, 2005
Attorney Docket Number: 0190236
Title: DEVICES AND METHODS FOR CONVERTING A DIGITAL SIGNAL INTO AN ANALOG SIGNAL

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed September 23, 2005.

The above-identified application was filed on April 22, 2005, identifying Elim Huang and Xun Xie as joint inventors. The declaration which was submitted on filing was executed only by Elim Huang. On May 16, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same. The notice set a two-month period for response.

The original petition was submitted on July 5, 2005, and was dismissed via the mailing of a decision on August 15, 2005, for failure to submit a declaration in compliance with 37 C.F.R.

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.

1.63, as the declaration failed to list the mailing address, the residential address, and the citizenship for the non-signing inventor.

With this renewed petition, an acceptable declaration has been submitted.

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
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Alexandria, Virginia 22313-1450
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Martin Neunzert	: DECISION ON REQUEST FOR
Patent Number	: 7634969	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,075	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

Mail Date: 05/13/2010

Applicant	: William Robert Hurst	: DECISION ON REQUEST FOR
Patent Number	: 7616743	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/112,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **951** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

O'KEEFE, EGAN, PETERMAN
& ENDERS LLP
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
#C200
AUSTIN, TX 78746

In re Patent No. 7,539,591	:	
Issue Date: May 26, 2009	:	
Application No. 11/112,083	:	NOTICE
Filed: April 22, 2005	:	
Attorney Docket No. VITI:009	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K Page

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICK PEREZ
2512 RD 76
PASCO, WA 99301

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Perez et al. :
Application No. 11/112,087 : ON PETITION
Filed: April 19, 2005 :
Atty Docket No.: RP2005 :

This is a decision on the Petition for Filing, filed August 4, 2005, requesting the application be accorded a filing date of April 19, 2005, including 4 pages of drawings.

The petition is **dismissed**.

The application was filed on April 19, 2005. However, on June 3, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant asserts that the application as-filed complied with 35 U.S.C. 113 because the application included drawings. In support of Applicant's assertion, Applicant has submitted copies of the Nonprovisional Patent Application Cover Sheet listing 4 pages of drawings as having been submitted with the application. Applicant also states that the Utility Patente Application Transmittal also lists 4 sheets of drawings as having been filed with the application. Applicant asserts that these documents support the contention that 4 sheets of drawings were filed with the application. Applicant also submits the declaration of Ricardo Perez wherein Mr. Perez contends that the application as-filed included 4 sheets of drawings.

Finally, Applicant notes that the above-identified application claims priority to provisional application no. 60/564,114, filed April 22, 2004, which included 4 sheets of drawings.

Regarding the Perez declaration, that he mailed the application with a set of 4 drawings, the declaration has been considered, but is not found persuasive that 4 drawings were filed on April

19, 2005. The USPTO file is the official record of the papers originally filed in this application. A review of the official file reveals that no drawings were filed on April 19, 2005, since no such drawings are 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 statement made by Applicant, and relied upon contain the Applicant's recall of events which occurred 3 months earlier and are not more persuasive than the record of what was filed as shown by the official file. The best evidence of what was filed on April 19, 2005, is applicant's postcard receipt.

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO. MPEP § 503.

Regarding Applicant's priority claim[1], a review of the contents of provisional application no. 60/564,114 reveals that the application includes 4 sheets of drawings. Based upon applicants' incorporation by reference of provisional application no. 60/564,114, and on petition, the application may be accorded the requested filing date.

The petition is granted. The petition fee will not be refunded as the petition was not necessitated by Office error.

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[1] 37 CFR 1.57(a) provides that if all or portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or 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 § 1.55 or § 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).

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of April 19, 2005, and an indication that 4 pages of drawings were present on filing.

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

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JOHN D. PIRNOT
ADVANCED ENERGY INDUSTRIES, INC.
1625 SHARP POINT DR.
FORT COLLINS CO 80525

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Gideon J. Van Zyl :
Application No. 11/112,113 : ON PETITION
Filed: April 22, 2005 :
Attorney Docket No. AE2004-045 :

This is a decision on the petition, filed March 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on March 30, 2007, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Sean R. O'Dowd appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. O'Dowe desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. O'Dowd, the petitioner herein. Until otherwise instructed, all future correspondence regarding

---

[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).

this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred toTechnology Center Art Unit 2857 for processing of the request for continued examination under 37 CFR 1.114 filed March 30, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
1200 19TH STREET, NW, 5TH FLOOR
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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Cooley Godward Kronish LLP
Attn: Patent Group
Suite 500
1200-19th Street, NW
Washington, DC 20036-2402

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OFFICE OF PETITIONS

In re Application of	:	
Gideon J. van Zyl	:	
Application No. 11/112,113	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. ADEN-024/00US 011028-2029	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 6, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the assignee of the patent application on July 24, 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: **Neugeboren Law Firm PC**
1035 Pearl Street
Suite 400
Boulder, CO 80302

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Kris T. Fredrick
Attorney, Intellectual Property
Honeywell International, Inc.
101 Columbia Rd., P.O. Box 2245
Morristown NJ 07962

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OCT 22 2008

In re Application of	:	
Liu	:	
Application No. 11/112,116	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. H0008807-0769	:	

This is a decision on petition, filed September 9, 2008, requesting revival of the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to timely pay the issue and publication fees on or before August 18, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed May 16, 2008.

Petitioner alleges that he did not receive the August 18, 2008 Notice and therefore, the delay in responding to it was unavoidable.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed.; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition does not satisfy requirement (3) listed above.

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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 have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). 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 to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the May 16, 2008 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) practitioner did not include a statement that a thorough and fruitless search of the file jacket and docket records was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

It is noted that the practitioner filing the present petition has an address different from the correspondence address of record. In any reconsideration petition, a practitioner practicing at the correspondence address of record should provide the necessary showing of non-receipt and statements.

A courtesy copy of this decision will be mailed to the practitioner filing the petition. It is noted that he is an attorney of record. If any change of correspondence address is desired, appropriate documents should be filed.

ALTERNATIVE VENUE

If petitioner is unable to prove that he did not receive the May 16, 2008 Notice, petitioner strongly consider filing a petition under 37 CFR 1.137(b).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m) (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The 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 revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: KERMIT LOPEZ
ORTIZ & LOPEZ, PLLC
P.O. BOX 4484
ALBUQUERQUE NM 87196-4484

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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS MO 63102-2740

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Akira Nabetani	:	
Application No. 11/112,124	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 16NM-JP04115	:	

This is a decision on the petition, filed July 26, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2859 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Foley Hoag, LLP
Patent Group
World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Yoram Rudy et al.	:	
Application No. 11/112,128	:	DECISION ON PETITION
Filed: April 21, 2006	:	TO WITHDRAW
Attorney Docket No. BP1979	:	FROM RECORD

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 8, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott E. Kamholz on behalf of all attorneys of record who are associated with Customer No. 25181.

All attorneys/agents associated with the Customer No. 25181 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.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Yoram Rudy**
3030 Huntington
Shaker Heights, OH 44120

cc: **Tarolli, Sundheim, Covell & Tummino L.L.P.**
1300 East Ninth Street, Suite 1700
Cleveland, OH 44114

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,128	04/21/2005	Yoram Rudy	BP1979

CONFIRMATION NO. 5883

OC000000020378436

OC000000020378436

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Date Mailed: 09/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/08/2006.

- 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.

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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NOV 1 2 2008

OFFICE OF PETITIONS

YORAM RUDY
370 WALTON ROW
ST. LOUIS, MO 63108

In re Application of Yoram Rudy, et al. Application No. 11/112,128 Filed: April 21, 2005 Attorney Docket No. BP1979	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 5, 2008.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before July 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 2, 2008. A Notice of Abandonment was mailed on July 30, 2008. On August 5, 2008, 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, the signature of Gary J. Pitzer 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). If Mr. Pitzer desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to petitioner, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $720 issue and $300 publication fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

[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 of unintentional delay 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.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GARY J. PITZER
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Andre R. Classen	: DECISION ON REQUEST FOR
Patent Number	: 7571228	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,135	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1046** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ATTN: KAREN A. FITZSIMMONS
MERCHANT & GOULD P.C.
P. O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Michael J. Follingstad :
Application No. 11/112,139 :
Filed: April 22, 2005 :
Attorney Docket No.: 2316.942USC2 :

ON PETITION

This is a decision on the petition, filed August 31, 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 20, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2833 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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JUN 02 2008

In re Application of	:	
John **Ternus** et al.	:	
Application No. 11/112,177	:	DECISION ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. P3379US1/3212P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 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 requirement for Restriction/Election mailed September 19, 2006, 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 October 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1,540.00 and (3) a statement of unintentional delay. Accordingly, the reply to the restriction requirement of September 19, 2006 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to 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 3632 for appropriate action by the Examiner in the normal course of business on the reply received.

David A. Bucci
Petitions Examiner
Office of Petitions

cc:
Joseph A. Sawyer, Jr.
2465 East Bayshore Road, Suite 406
Palo Alto, CA 94303

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/112,186	04/22/2005	1723	500	2022/40461A/PA2A	8	1	1

CONFIRMATION NO. 4140

CORRECTED FILING RECEIPT

OC000000016133458

00279
TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 WEST ADAMS STREET
SUITE 3600
CHICAGO, IL 60603

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)

Gary W. Ferguson, Burnaby, CANADA;

Power of Attorney:

Timothy McCarthy--42855

Domestic Priority data as claimed by applicant

This application is a DIV of 10/263,129 10/02/2002 PAT 6,884,341

Foreign Applications

If Required, Foreign Filing License Granted: 05/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/112,186

Projected Publication Date: 09/01/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

BEST AVAILABLE COPY

Title

Filter device to capture a desired amount of material and methods of use

Preliminary Class

210

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

In re Application of	:	
George John Athanasiou	:	
Application No.: 11/112189	:	ON PETITION
Filing or 371(c) Date: 04/22/2005	:	
Title of Invention:	:	
STEERING DAMPER	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed January 26, 2009.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 25, 2008. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on August 27, 2008; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed September 11, 2008. No timely and proper reply having been received, the application became abandoned on June 26, 2008. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The present petition

Applicant files the present petition and submits that the abandonment of the application was unavoidable because Applicant did not receive the Advisory Action mailed September 11, 2008. Applicant provides that at the time, his business mail was being forwarded to a different address, and he did not receive the Advisory Action until after September 25, 2008, by which time the application had already become abandoned.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

As to item (**3**), Applicant must provide 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. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> 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.

In re Mattullath , 38 App. D.C. 497, 514-15 (1912)(quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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).

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will

not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to:

(A) the applicant's reliance upon oral advice from USPTO employees; or
(B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Analysis

In this instance, Petitioner asserts as the cause for the delay, Petitioner's failure tp receive the Advisory Action in sufficient time for Petitioner to take corrective action; however, as stated above, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Moreover, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.

Conclusion

The evidence has been considered. Applicant has failed to demonstrate that the failure to timely and properly reply to the final Office action was unavoidable.

Alternate venue

If Applicant is unable to demonstrate the timely filing of a Change of Correspondence Address, Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was

"unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
George John Athanasiou	:	
Application No.: 11/112189	:	ON PETITION
Filing or 371(c) Date: 04/22/2005	:	
Title of Invention:	:	
STEERING DAMPER	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed April 21, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 25, 2008. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply on August 27, 2008; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed September 11, 2008. No timely and proper reply having been received, the application became abandoned on June 26, 2008. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 3657 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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KENNETH E. LEEDS
P.O. BOX 2819
SUNNYVALE, CA 94087-0819

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OFFICE OF PETITIONS

In re Application of	:	
David Treves et al	:	
Application No. 11/112,190	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. K2004019	:	37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition includes a declaration by David Treves attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2621 for action on the merits commensurate with this decision.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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Paper No.

MARSHALL, GERSTEIN & BORUN
LLP (MICROSOFT)
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6300 SEARS TOWER
CHICAGO, IL 60606

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Murphy et al.	:	DECISION ON
Application No. 11/112,208	:	PETITION
Filed: April 22, 2005	:	
Atty Docket No. 30835/310832	:	

This is a decision on the PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION FOR PATENT UNDER 37 CFR 1.137(b) filed February 9, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed May 18, 2005. The Notice required applicants to file an executed oath or declaration and late surcharge within TWO (2) MONTHS, with extensions of time obtainable under § 1.136(a). No reply having been filed and no extension of time obtained, the application became abandoned effective July 19, 2005. A Notice of Abandonment was mailed on February 2, 2006.

The instant petition was promptly filed in response. The petition includes 1) the petition fee, 2) the required reply in the form of an executed declaration and late surcharge, and 3) the required statement of unintentional delay. Petitioner has thereby met all the requirements for a grantable petition under § 1.137(b).

The petition also includes a fee for extension for response within the fifth month. The maximum period for extension for response to the Notice ended on December 18, 2005. Thereafter, no extension of time could be obtained. As no extension of time is obtainable, the fee for such extension is being refunded to Deposit Account NO. 13-2855, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is thereby forwarded to OIPE for processing of the responses to the Notice to File Missing Parts mailed May 18, 2005, submitted on petition filed February 9, 2006.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CHARLES FARREL BROWN
3710 S. HARRIS AVE
BATON ROUGE, LA 70816

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OFFICE OF PETITIONS

In re Application of	:	
Charles Farrel Brown	:	
Application No. 11/112,210	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 28, 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 Charles Farrel Brown 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 3751 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Sunay Tripathi	: DECISION ON REQUEST FOR
Patent Number	: 7623538	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **834** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TECHNOLOGY CENTER 3600

MICHAEL BEST & FRIEDRICH LLP
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE, SUITE 2000
CHICAGO, IL 60601

In re application of Puneet Saxena et al. Application No. 11/112,223 Filed: April 22, 2005 For: METHOD FOR ESTABLISHING LINE OF CREDIT	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 08, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B) above. Regarding item (B), the petition fails to include all claims being directed to a single invention or a statement that applicants are willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 10/12/06

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TECHNOLOGY CENTER 3600

MICHAEL BEST & FRIEDRICH LLP
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE
SUITE 2000
CHICAGO, IL 60601

In re application of
Puneet Saxena et al.
Application No. 11/112,223
Filed: April 22, 2005
For: METHOD FOR ESTABLISHING LINES OF CREDIT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on December 13, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/slb: 12/20/06

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CHARLOTTE NC 28217

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OFFICE OF PETITIONS

In re Patent No. 7,441,725	:
Issued: October 28, 2008	: DECISION ON APPLICATION
Application No. 11/112,237	: FOR PATENT TERM ADJUSTMENT
Filed: April 22, 2005	:
Attorney Docket No. GRDSP0355US	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (AND/OR PETITION UNDER CFR §1.705)" filed November 12, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred eighty-seven (587) days to seven hundred fifty-five (755) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 28, 2008, the above-identified application matured into US Patent No. 7,441,725 with a patent term adjustment of 587 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 755 days, which includes 188 days of patent term adjustment due to exceeding three year pendency and 587 days due to USPTO delay in prosecution.

The 188-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 22, 2005, and the patent having been issued on October 28, 2008, three years and 188 days later. Patentees assert that in addition to this 188-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 587 days for the failure by the Office to mail at least one of a

notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (188 days) and the period of Examination Delay (587 days) minus any period 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 755 days, which is the sum of the period of Three Year Delay (188 days) and the period of Examination Delay (587 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 755 days (188 + 587 reduced by 0 overlap – 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on October 28, 2008, the application was pending three years and 188 days after its filing date.

The Office agrees also that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 188 days is correct. At issue is whether patentees should accrue 188 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 587 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 188 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 commencement 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 22, 2005, to the date the patent issued on October 28, 2008. Prior to the issuance of the patent, 587 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application plus 188 days for failure to issue the patent within three years of the commencement. All of the 188 days for Office delay in issuing the patent overlap with the 587 days of Office delay. During that time, the issuance of the patent was delayed by 587 days, not 587 + 188 days. The Office took 14 months and 587 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 587 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 188 days. The Office did not delay 587 days and then an additional 188 days. Accordingly, 587 days of patent term adjustment (not 587 and 188 days) was properly entered since the period of delay of 188 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 587 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 587

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 188 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.

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

Day : Thursday
Date: 7/16/2009

PALM INTRANET

Time: 12:15:50

PTA Calculations for Application: 11/112237			
Application Filing Date:	04/22/2005	PTO Delay (PTO):	587
Issue Date of Patent:	10/28/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	587
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
37.5	10/08/2008	PTA 36 MONTHS			
37	10/28/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
36	09/26/2008	EXPORT TO FINAL DATA CAPTURE			
35	09/25/2008	DISPATCH TO FDC			
34	09/25/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
33	09/24/2008	ISSUE FEE PAYMENT VERIFIED			
32	09/24/2008	ISSUE FEE PAYMENT RECEIVED			
31	08/22/2008	FINISHED INITIAL DATA CAPTURE			
30	08/12/2008	EXPORT TO INITIAL DATA CAPTURE			
29	08/06/2008	MAIL NOTICE OF ALLOWANCE			
28	08/01/2008	ISSUE REVISION COMPLETED			
27	08/01/2008	DOCUMENT VERIFICATION			
26	08/01/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	08/01/2008	NOTICE OF ALLOWABILITY			
24	05/21/2008	DATE FORWARDED TO EXAMINER			
23	04/30/2008	RESPONSE AFTER NON-FINAL ACTION			
22	01/30/2008	MAIL NON-FINAL REJECTION	587		-1
21	01/29/2008	NON-FINAL REJECTION			
17	07/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	08/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	08/29/2006	REFERENCE CAPTURE ON IDS			
14.7	08/29/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			

14	08/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/31/2005	CORRESPONDENCE ADDRESS CHANGE			
12	07/18/2005	REFERENCE CAPTURE ON IDS			
11.7	07/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	07/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	06/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	05/18/2005	APPLICATION RETURN FROM OIPE			
7	05/19/2005	APPLICATION IS NOW COMPLETE			
6	05/18/2005	APPLICATION RETURN TO OIPE			
5	05/18/2005	APPLICATION DISPATCHED FROM OIPE			
4	05/18/2005	APPLICATION IS NOW COMPLETE			
3	05/11/2005	CLEARED BY OIPE CSR			
2	05/04/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/22/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent application of:

Applicant(s): Galdemir C. Botura et al.
Patent No: 7,441,725
Issued: October 28, 2008
Serial No: 11/112,237
Filing Date: April 22, 2005
Title: AIRCRAFT WET WING
Examiner: Timothy D. Collins
Art Unit: 3643
Conf. No: 6643
Docket No. GRDSP0355US

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (AND/OR PETITION UNDER CFR §1.705)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Further and favorable consideration of the term adjustment for the above-identified patent is respectfully requested.

A fee of $200.00[1] is submitted herewith by Credit Card via EFS-Web.[2]

On August 6, 2008, the notice-of-allowance papers for this patent were mailed and Form PTOL-85 (Determination of Patent Term Adjustment) indicated a patent term adjustment of 587 days.

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1. CFR §1.18(e).

2. In the event any fee or additional fee is due in connection with the filing of this paper, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 under Docket No. GRDSP0355US. In the event an extension of time is needed to make the filing of this paper timely and no separate petition is attached, please consider this a petition for the requisite extension and charge the fee to our Deposit Account No. 18-0988 under Docket No. GRDSP0355US.

On September 30, 2008, the US District Court for the District of Columbia clarified the PTO's interpretation of 35 USC §154.[3]

On October 28, 2008, the patent was issued.

This request/petition is filed within two months of the issue date of the patent.

The issued patent should have indicated a revised patent term adjustment of 755 days (based on the *Wydeth* holding), but it did not.

The patent was filed on April 22, 2005 and the first Office Action was mailed on January 30, 2008, whereby the delay under CFR §1.702(a)[4] (the "A" delay) is 587 days.

The patent was filed on April 22, 2005 and it issued on October 28, 2008, whereby the delay under CFR §1.702(b)[5] (the "B" delay) is 188 days.

The "A" delay period and the "B" delay period do not overlap (*i.e.*, they do not occur on the same calendar days) as shown schematically on Exhibit A.

The correct patent term adjustment is 775 days, the sum of the "A" delay (587 days) and the "B" delay (188 days).

The patent is not subject to a terminal disclaimer.

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in CFR §1.704.

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3. *Wyeth v. Dudas*, No. 07-1492 (D.D.C. September 30, 2008). The Court concluded that the operative question is whether "periods of delay attributable to grounds specified in paragraph (1) overlap." The only way that periods of time can "overlap" is if they occur on the same day. If an "A delay" occurs on one calendar day and a "B delay" occurs on another, they do not overlap, and CFR §154(b)(2)(A) does not limit the extension to one delay.

4. "The period of adjustment under CFR §1.702(a) is . . . [t]he number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed . . . and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first." CFR §1.703(a).

5. "The period of adjustment under CFR §1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed." CFR §1.703(b).

Favorable disposition of this request/petition, and refund of the paid petition fee (and/or any other fees charged in connection with this request/petition that appropriately deserve refund) are earnestly solicited.[6]

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By /Cynthia S. Murphy/
Cynthia S. Murphy, Reg. No. 33,430

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113

Attachment: Exhibit A

CERTIFICATE OF MAILING, FACSIMILE OR ELECTRONIC TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is
_being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Commissioner for Patents address below.
X being transmitted via the USPTO Electronic Filing System.

/Cynthia S. Murphy/
Cynthia S. Murphy

November 12, 2008
Date

P0355US.REQUEST FOR RECONSIDERATION.DOC

6. Please credit the refund(s) to our Deposit Account No. 18-0988 under Docket No. GRDSP0355US.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/112,254	04/22/2005	1633	1150	6818-93	2	34	6

CONFIRMATION NO. 6649

CORRECTED FILING RECEIPT

OC000000016781800

30448
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Date Mailed: 08/15/2005

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)

C. Kathleen Dorey, Boca Raton, FL;
Janet C. Blanks, Boca Raton, FL;
Howard Prentice, Boca Raton, FL;

Assignment For Published Patent Application

Florida Atlantic University, Boca Raton, FL

Power of Attorney: The patent practitioners associated with Customer Number **30448**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/564,475 04/22/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/112,254

Projected Publication Date: 11/24/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

GFAP-based gene therapy for treatment of retinal diseases

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 Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303

MAY 23 2007

In re Application of:
BRENNAN *et al.*
Serial No.: 11/112,256
Filed: April 22, 2005
Docket: **PA2987US**

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the renewed petition filed on August 24, 2006, 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 **GRANTED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; c) a statement that all claims are directed towards a single invention; and d) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a 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 (non-US) 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) – (e) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII). Any restriction later required by the Office must be responded with an election without traverse by applicant as a condition for the application retaining its special status.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, TQAS, at (571) 272-1594.

Clayton E. LaBalle, TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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HONEYWELL/CST
Patent Services
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Kevin J. Engler	: DECISION ON REQUEST FOR
Patent Number	: 7635091	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,259	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **680** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Wittenstein : DECISION ON PETITION
Application No. 11/112,274 :
Filed: April 21, 2005 :
For: 026182-000210US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 20, 2005 for failure to timely reply to the Notice to File Missing Parts of Provisional Application dated May 19, 2005. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was given February 1, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Initial Patent Examination for further processing, including processing of fees, if necessary.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Andreas Wittenstein	: DECISION ON REQUEST FOR
Patent Number	: 7659911	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **464** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAY 31 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of	:	
BOUSQUET-GAGNON, et al.	:	
Application No. 11/112,277	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. 500862003700	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michael R. Ward of MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on 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: **JONES DAY**
222 E. 41ST STREET
NEW YORK, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

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BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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MAY 08 2006
OFFICE OF PETITIONS

In re Application of	:	
Brian D. Wichner, et. al.	:	
Application No. 11/112,286	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. 012.P47007C2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 27, 2006 and supplemented by facsimile transmission on April 19, 2006, to revive the above-identified application.

The application became abandoned for failure to reply to the non-final Office action mailed on May 31, 2005. A Notice of Abandonment was mailed December 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, specification, and terminal disclaimer with fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney filed by facsimile transmission on March 27, 2006, has been accepted and made of record.

The application file is being referred to Technology Center Art Unit 2851for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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WEISS & MOY PC
4204 NORTH BORWN AVENUE
SCOTTSDALE, AZ 85251

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Gary Weingardt et al	:	DECISION ON PETITION
Application No. 11/112,291	:	TO MAKE SPECIAL UNDER
Filed: April 22, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. 4185P2936	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 24, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the drive's license of one of the named inventors indicated that he is over 65 pears of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2637 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
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KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS, MI 48334

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JAN 14 2010

In re Application of	:	
Steven Streatfield Gill	:	
Application No. 11/112,301	:	DECISION ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 3174.00012	:	

This is a decision on the petition, filed August 17, 2009, which is being treated as a petition under 37 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to 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). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed January 15, 2009. A five (5) month extensions of time and Request for Continued Examination (RCE), was filed on August 17, 2009. However, since the RCE did not include the submission required by 37 CFR 1.114, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 18, 2009. *See* MPEP 1215.04.

Petitioner asserts that the USPTO prematurely and erroneously issued a Notice of Abandonment on July 22, 2009. Petitioner states that a timely reply was filed on January 15, 2009 which included the following papers: Notice of Appeal and payment of extension of time fees.

In view of the above, the Notice of Appeal filed January 15, 2009, does not constitute as a complete reply since an Appeal Brief and fee was not submitted within two (2) months of the filing of the Notice of Appeal in accordance with 37 CFR 41.37(a)(1), and the RCE file August 17, 2009, is not complete because the required submission under 37 CFR 1.114 was not included. Therefore, the petition requesting withdrawal of the holding of abandonment cannot be granted.

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 Alicia Kelley at (571) 272-6059.

Chris Bottorff
Petitions Examiner
Office of Petitions

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KOHN & ASSOCIATES, PLLC
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FARMINGTON HILLS, MI 48334

MAILED

MAR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Steven Streatfield Gill	:	
Application No. 11/112,301	:	DECISION ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 3174.00012	:	

This is a decision on the renewed petition, filed February 18, 2010 which is being treated as a petition under 37 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for 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). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed January 15, 2009. A five (5) month extensions of time and Request for Continued Examination (RCE), was filed on August 17, 2009. However, since the RCE did not include the submission required by 37 CFR 1.114, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 18, 2009. *See* MPEP 1215.04.

In view of the above, the renewed petition requesting withdrawal of the holding of abandonment cannot be granted since the response submitted on August 17, 2009 was incomplete. A complete response, of an RCE and the submission required by 37 CFR 1.114 would have had to been filed on August 17, 2009, to constitute a timely reply. Since the response submitted on August 17, 2009 was incomplete, the holding of abandonment cannot be withdrawn.

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), **$1,620.00 for a large 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 $1,620.00 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 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 Alicia Kelley at (571) 272-6059.

Chris Bottorff
Petitions Examiner
Office of Petitions

Enclosure (PTO/SB/64)

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Alexandria, VA 22313-1450
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30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS, MI 48334

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Steven Streatfield Gill
Application No. 11/112,301
Filed: April 22, 2005
Attorney Docket No. 3174.00012

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for 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). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed January 15, 2009. A five (5) month extensions of time and Request for Continued Examination (RCE), was filed on August 17, 2009. However, since the RCE did not include the submission required by 37 CFR 1.114, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 18, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 (previously submitted on August 17, 2009) and the submission required by 37 CFR 1.114 (previously submitted on February 18, 2010), (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 Technology Center AU 3766 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment in accordance with 37 CFR 1.114.

Carl Friedman
Petitions Examiner
Office of Petitions

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

In re Application of
Kang, et al.
Application No. 11/112,303
Filed: April 21, 2005
Docket No.: 05-325

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 16, 2007, 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 January 12, 2007. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. A refund will be issued in due course.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SUITE 1201
NEW HAVEN CT 06510

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of :
Kang, et al. : DECISION ON PETITION
Application No. 11/112,303 :
Filed: April 21, 2005 :
Docket No.: 05-325 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 13, 2007.

The above-identified application was revived under 37 CFR 1.137(b) by way of a decision mailed September 17, 2007. For reasons unknown to the undersigned, a Notice of Abandonment was mailed October 1, 2007. As the petition to revive included a reply to the non-final Office action mailed January 12, 2007, the application was directed to Technology Center 3600 for consideration of the reply.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 3600 for consideration of the reply to the non-final Office action filed July 16, 2007.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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AMGEN INC.
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

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OFFICE OF PETITIONS

In re Patent No. 7,449,555 :
Issued: November 11, 2008 :
Application No. 11/112,304 : PATENT TERM ADJUSTMENT
Filed: April 22, 2005 :
Dkt. No.: 49494.0009 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)," filed January 9, 2009.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,449,555 on November 11, 2008. The patent issued with a PTA 194 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 adjustment be increased from 194 days to 397 days.

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' calculation of adjustment asserts that the following adjustments do not overlap: a three year delay by the Office, pursuant to 37 CFR 1.703(b), of 203 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 285 days. The 203-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 22, 2005 and the patent having been issued on November 11, 2008. Patentees assert that in addition to this 203-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 285 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 91 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not

overlapping. However, in effect, patentees contend that no portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 488 days (deemed by applicants to be the sum of the period of three year delay (203 days) and the period of examination delay (285 days), reduced by zero days of overlap). As such, patentees assert entitlement to a patent term adjustment of 397 days (203 days *plus* 285 days *less* zero days of overlap *less* 91 days of applicant delay).

The Office agrees that as of the time that at the time of issuance of the patent, the application was pending three years and 203 days after its filing date. The three years delay commences the day after the date that is three years after the date that an application is filed, and ends the date that the patent issues, notwithstanding any periods of time excluded pursuant to U.S.C. 154(b)(1)(B)(i)-(iii). The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 285 days is correct. At issue is whether patentees should accrue an additional 203 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 285 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 203 days of delay in issuing the patent overlaps with the period of examination delay of 285 days. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of

> the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). *See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, April 22, 2005, to the date the patent issued on November 11, 2008. Prior to the issuance of the patent, 285 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 203 days for Office delay in issuing the patent overlap with the 285 days of Office delay. During that time, the issuance of the patent was delayed by 285 days. The Office did not delay 285 days and then delay an additional 203 days. Accordingly, as the 203 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 285 days attributable to grounds specified in § 1.702(a), entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. The fee will not be refunded, as requested, as submission of the patent term adjustment application fee is required per 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

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of :
MAA et al. :
Application No. 11/112,311 : ON PETITION
Filed: April 21, 2005 :
Attorney Docket No. ALZ5134USNP :

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2006, to revive the above-identified application.

The petition is **DISMISSED as moot**.

On June 14, 2005, the Office mailed a Notice to File Corrected Application Papers and required replacement drawings. The Notice set a period for reply of two (2) months from the mail date of the Notice. Drawings were timely submitted on August 15, 2005 (August 14 being a Sunday). A Notice of Non-Compliant Amendment (37 CFR 1.121) (PTOL-324) was then mailed to Applicants on November 2, 2005, requiring the amendment to the drawings comply with 37 CFR 1.121(d). Applicant did not respond to the PTOL-324, until the filing of the present petition accompanied by an amendment to the drawings.

As a preliminary matter, 37 CFR 1.115 defines a preliminary amendment as "an amendment that is received in the Office (§ 1.6) on or before the mail date of the first Office action under § 1.104." No Office action has been mailed. Since the amendment to the drawings submitted on August 15, 2005 was received on or before the mail date of a first Office action under 37 CFR 1.104, the amendment is a preliminary amendment.

MPEP 714(II)(F) states that if an amendment fails to comply with 37 CFR 1.121, the Office will notify applicant using Form PTOL-324 that the amendment fails to comply with the requirements of 37 CFR 1.121. Additionally, MPEP 714(II)(F) states that for "[a] preliminary amendment filed after the filing date of the application, the technical support staff (TSS) will send the notice which sets a time period of 30 days or one month, whichever is later, for reply. No extensions of time are permitted. Failure to submit a timely reply will result in the application being examined without entry of the preliminary amendment." The PTOL-324 also states, "[f]ailure to timely

respond to this notice will result in: . . . Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment." Accordingly, the amendment filed August 15, 2005 has not been entered for purposes of examination. The above-identified application is not abandoned.

Upon examination, the Examiner should consider the preliminary amendment filed on August 1, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

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MORRISON AND FOERSTER LLP
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PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Zheng	:	
Application No. 11/112,316	:	ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. 017887-015710US	:	
For: TRAFFIC MESSAGING SYSTEM		

This is a decision on the petition captioned under 37 CFR 1.182, filed February 17, 2006, requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application, mailed January 5, 2006, insofar as it alleges that Figures 3D, 3E, and 5E were omitted upon filing. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on April 21, 2005. On January 5, 2006, the Office of Initial Patent Examination mailed a Notice informing petitioner, *inter alia*, that Figures 3D, 3E, and 5E were omitted.

The present petition was timely filed on February 17, 2006. Petitioner argues that Figures 3D, 3E, and 5E were received in the Patent and Trademark Office (PTO) on April 21, 2005. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing April 21, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing included 13 pages of drawings. A review of the application file reveals that only 11 pages of drawings are present.

The return postcard constitutes *prima facie* evidence that 13 pages of drawings were filed on April 21, 2005. MPEP 503. Petitioners have submitted a copy of Figures 3D, 3E, and 5E. Accordingly, the request is granted.

Pursuant to petitioner's authorization, deposit account no. 03-1952 will be credited the $400.00 fee submitted with the petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **April 21, 2005**, using the copy of Figures 3D, 3E, and 5E supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Peter J. Gordon, Patent Counsel
Avid Technology, Inc.
One Park West
Tewksbury, Massachusetts 01876

MAIL

JUL 20 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Fayan, Randy M.
Serial No.: 11/112,321
Filed: April 22, 2005
For: **GRAPHICAL USER INTERFACE FOR A KEYER**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) filed March 8, 2007 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figure 3, 4 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) sets 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**.

Kenneth A. Wright for

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Sunay Tripathi	: DECISION ON REQUEST FOR
Patent Number	: 7640591	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,328	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alan W. Young
Young Law Firm, P.C.
4370 Alpine Road, Suite 106
Portola Valley, CA 94028

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In re Application of	:	
Derek J. Harper et al.	:	
Application No. 11/112,331	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. MICR5930	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 2006.

The request is **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 no longer represent the interests of this client**, 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.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Derek J. Harper
6856 Buttonwood Lane
Goleta, CA 93117

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS IN 46204-4900

MAILED

JUN 16 2009

OFFICE OF PETITIONS

In re Application of Kitchens et al. :
Application No. 11/112,337 : DECISION ON PETITION
Filing Date: April 22, 2005 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 10842-56708 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other

requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center Art Unit 2434 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/112,337	04/22/2005	2434	565	10842-56708	18	3

CONFIRMATION NO. 5215

CORRECTED FILING RECEIPT

35973
BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS, IN 46204-4900

OC000000036459514

Date Mailed: 06/15/2009

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)

Fred L. Kitchens, Muncie, IN;
Sushil Sharma, Muncie, IN;
Queen Esther Booker, Mankato, MN;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/565,202 04/23/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/25/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/112,337**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Identity authentication based on keystroke latencies using a genetic adaptive neural network

Preliminary Class

713

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BUHLER & ASSOCIATES PATENT LAW
SUITE 100
1101 CALIFORNIA AVE
CORONA, CA 92881

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OCT 19 2005
OFFICE OF PETITIONS

In re Application of	:	
Randall L. May	:	
Application No. 11/112,342	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RM01-11U	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed April 22, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

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 instant petition includes all of the requirements above except item (B). In view of this deficiency, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

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.

The application is being forwarded to the Technology Center Art Unit 2837 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CORONA, CA 92881

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OFFICE OF PETITIONS

In re Application of	:	
Randall L. May	:	
Application No. 11/112,342	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RM01-11U	:	37 CFR 1.102(d)
	:	

This is a decision on the renewed petition under 37 CFR § 1.102(d), filed November 7, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED**.

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 instant petition includes all of the requirements above except item (C). In view of this deficiency, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2837 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

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In re Application of	:	
Randall L. May	:	
Application No. 11/112,342	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RM01-11U	:	37 CFR 1.102(d)
	:	

This is a decision on the renewed petition under 37 CFR § 1.102(d), filed May 19, 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.

The second and third petition fees ($260) are 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 2837 for action on the merits commensurate with decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

MAILED

SEP 05 2006

Technology Center 2100

In re Application of: Arrouye, et al.
Application No. 11/112,350
Filed: April 22, 2005
For: METHODS AND SYSTEMS FOR MANAGING DATA

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on January 26, 2006.

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. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

With respect to requirement (e) above, the petition does not contain 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 pending independent claims (i.e. 10, 72, 148, 161 & 165) is specifically distinguishable and patentable from the references provided in requirement (d) above. Note, with particular reference to independent claims 148 and 161, a careful review of the claim recitation identified by the Petitioner, i.e. "within the open file window" does not appear in those claims, as indicated. Petitioner should ensure that the comparison of language that defines over the most closely related reference(s) is consistent with the claim language present in the instant application.

Further, the petition filed January 26, 2006 repeats **substantially the entirety** of the independent claim language (claims 10 and 72) and identifies all limitations as those limitations that the reference(s) do not show or suggest, thus the petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition does not specifically recite language or limitations from the independent claims to properly compare/contrast the claimed invention (each of the independent claims) with respect to the prior art in the identified references. Petitioner is required to submit a **detailed discussion that includes identifying claim limitations with particularity for each independent claim** that shows how the claimed invention distinguishes over the relevant teachings of each reference.

Applicant's petition 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. The petition must specifically show, for each independent claim, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references."

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

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.

Brian L. Johnson
Special Program Examiner, Tech. Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

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APR 15 2008

OFFICE OF PETITIONS

In re Application of

KUHR Werner G. et al.
Application No. 11/112,359
Filed: April 22, 2005
Attorney Docket No. **407T-103301US**

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 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 Quine on behalf of all attorneys of record who are associated with customer No. 22434. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed November 19, 2007 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: **WERNER G. KUHR**
7075 CORIANDER DR.
OAK HILLS, CA 92345

cc: **BEYER WEAVER LLP**
P.O. BOX 70250
OAKLAND CA 94612-0250

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Young Law Firm, P.C.
4370 Alpine Road, Suite 106
Portola Valley, CA 94028

Mail Date: 04/21/2010

Applicant	: Jean-Marie Gatto	: DECISION ON REQUEST FOR
Patent Number	: 7618324	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,373	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Henry A. Hill et al	:	
Application No. 11/112,375	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 09712-37001/Z-491	:	

This is a decision on the petition, filed April 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 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 2877 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : August 21, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Henry A. Hill et al
Application No. :11/112,375
Filed :April 22, 2005

The above-identified application has been assigned Patent No. 7,095,506 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. 7,095,506 to Henry A. Hill et al of Arizona for INTERFEROMETRY SYSTEMS AND METHODS OF USING INTERFEROMETRY SYSTEMS appearing in the Official Gazette of August 22, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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AUG 17 2005

OFFICE OF PETITIONS

CURAGEN CORPORATION
322 EAST MAIN ST
BRANFORD CT 06405

In re Application of	:	
Shimkets, et al.	:	
Application No. 11/112,424	:	DECISION GRANTING PETITION
Filed: April 21, 2005	:	
Attorney Docket No. Cura 52 CON 2	:	

This is a decision on the "PETITION FILED UNDER 37 CFR §1.53(e) TO ACCORD A FILING DATE", filed July 15, 2005, to accord the above-identified application a filing date of April 21, 2005.

The application was deposited on April 21, 2005. However, on June 8, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that the application had not been accorded a filing date because the application was deposited without drawings. In addition the Notice informed applicants that they had to submit a sequence listing in compliance with 37 C.F.R. §1.821-1.825, as well as the statutory basic filing fee.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This instant application contains process claims.

Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the petition to accord a filing date of April 21, 2005 is **GRANTED**.

The "Notice of Incomplete Nonprovisional Application", mailed June 8, 2005, was mailed in error and is hereby **VACATED**.

The above-identified application is accorded a filing date of April 21, 2005, as requested in the petition.

Given the basis for granting this petition, the $400 petition fee has been refunded to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of April 21, 2005, using the application papers received in the Office on that date, and for mailing a Notice to File Missing Parts of Nonprovisional Application with respect to the fees.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: CuraGen Corporation
555 Long Wharf Drive
New Haven CT 06511

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLARQUIST SPARKMAN, LLP
ONE WORD TRADE CENTER, SUITE 1600
121 S.W. SALMON STREET
PORTLAND, OR 97204

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Lorne Whitehead et al :
Application No. 11/112,428 : ON PETITION
Filed: April 22, 2005 :
Attorney Docket No. 22-66752-02

This is a decision on the petition, filed February 13, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 19, 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 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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MAY 25 2006
OFFICE OF PETITIONS

In re Application of :
Lorne Whitehead et al :
Application No. 11/112,428 : ON PETITION
Filed: April 22, 2005 :
Attorney Docket No. 22-66752-02

This is a decision on the petition filed May 18, 2006 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 March 13, 2006, with the issue fee being due on or before June 13, 2006.

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 March 13, 2006 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.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3210.

This matter is being referred to Technology Center Art Unit 2851.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Sunay Tripathi	: DECISION ON REQUEST FOR
Patent Number	: 7607168	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,436	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SAIDMAN DESIGNLAW GROUP
8601 GEORGIA AVENUE, SUITE 603
SILVER SPRING, MD 20910

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Kevin Shawn PETRARCA, et al	:	
Application No. 11/112,457	:	DECISION ON PETITION
Filed: April 30, 2008	:	TO WITHDRAW
Attorney Docket No. 1773.001	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 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).

Teresa M. Arroyo has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of	:
Lutz, Winters, Dunn, and Guth	: DECISION ACCORDING STATUS
Application No. 11/112,479	: UNDER 37 CFR 1.47(a)
Filed: 22 April, 2005	:
Atty Dckt No. 05408/1200862-US1	:

This is in response to the petition under 37 CFR 1.47(a) filed on 9 January, 2006.[1]

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Patrick J. Lutz, has refused to sign the declaration after having been sent a copy of the application. Specifically, petitioners have shown, via the declaration of registered patent attorney Y. Jae Kim, that a copy of the application papers was sent to the last known address of non-signing inventor Lutz on two occasions, but that the non-signing inventor stated during a telephone conversation he would not sign the declaration naming him as a joint inventor along with Kristy A. Winters, Kelly A. Dunn, and Jacob Guth.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application will be forwarded to Technology Center Art Unit 1615 for examination in due course.

[1] The response to the Notice mailed on 7 June, 2005, is timely with a five (5) month extension because 7 January, 2006, fell on a Saturday.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DIW Feb-06

Patrick J. Lutz
5735 Kesslerville Road
Nazareth PA 18064

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of
Lutz et al.
Application No. 11/112,479
Filed: 22 April, 2005
For: PERSONAL CARE COMPOSITIONS AND CONCENTRATES FOR MAKING THE SAME

Dear Mr. Lutz:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

DARBY & DARBY, P.C.
P.O. BOX 5257
NEW YORK NY 10150-5257

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
O'Neil et al. :
Application Number: 11/112481 :
Filing Date: 04/22/2005 : ON PETITION
Attorney Docket Number: CEN :
5054 USNP :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on December 1, 2008, for failure to timely submit replacement drawings in response to the Notice to File Corrected Application Papers *Notice of Allowance Mailed* mailed on September 30, 2008, which set a two (2) period for reply. Notice of Abandonment was mailed on December 16, 2008.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the amendment transmitting the corrected drawings, filed with the subject petition, is acknowledged.

The application is referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

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MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Jared Morgenstern et al	:	
Application No. 11/112,483	:	DECISION ON PETITION
Filed: April 21, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 30289-1220	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR § 1.102(d), filed May 2, 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 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 3625 for action on the merits commensurate with decision.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Morgenstern et al.	:	
Application Number: 11/112483	:	ON PETITION
Filing Date: 04/21/2005	:	
Attorney Docket Number: 30289-1220	:	

This is a decision on the petition to withdraw the holding of abandonment, filed on January 23, 2009.

This application became abandoned on July 7, 2007, for failure to timely submit a response to the final Office action mailed on April 6, 2007, 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 November 5, 2007.

Petitioners request that the holding of abandonment be withdrawn because the final Office action mailed on April 6, 2007, was never received. In support, petitioners have provided a copy of counsel's mail log and docket report, as well as a statement that a search of the docket record and file jacket indicates that the final Office action was never received.

Petitioners' argument has been considered, but is not persuasive.

At the outset, it is noted that over (1) year elapsed between the mailing of the Notice of Abandonment on November 5, 2007, and the filing of the subject petition. In this regard, 37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Accordingly, petitioners must show why the petition should not be dismissed out of hand for being untimely.

Furthermore, the reply filed with the subject petition in response to the final Office action is an amendment after final. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the after-final amendment submitted with the subject petition fails to place the application in condition for allowance. Assuming, *arguendo*, the final Office action had been timely received, and the amendment after final rejection filed, the application would have nevertheless become abandoned for failure to file a timely and proper reply to the final Office action.

A copy of the Advisory Action Before the Filing of an Appeal Brief is enclosed for petitioner's reference.

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 rule clearly indicates that the mere filing of an amendment does not relieve petitioners of the duty of taking appropriate action to save the application from abandonment. Therefore, whether petition received an Advisory Action or not, prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection, filing a continuing application, or requesting continued examination by filing a submission and the required fee. This application became abandoned for failure on the part of petitioner to timely file an appeal, a continuing application, or a request for continued examination accompanied by a submission.

Petitioners are encouraged to consider the filing of a petition to revive, accompanied by a proper reply.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

ALTERNATIVE VENUE

Petitioners may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply

[1] 37 CFR 1.181(f).

was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief
PTO/SB/64

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/112,483	Applicant(s) MORGENSTERN ET AL.	
	Examiner Yogesh C. Garg	Art Unit 3625	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See 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: _____.
   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: _____.

/Yogesh C Garg/
Primary Examiner, Art Unit 3625

Continuation of 3. NOTE: Current amendments to independent claims 1, 15, 23, 28, include new limitations, " one or more agents include self-determined content information in their identities", and " wherein the information is provided free of charge to the first of said agents". These new limitations raise new issues that would require further consideration and/or search.. .

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DIW May-09

MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of Morgenstern et al. Application Number: 11/112483 Filing Date: 04/21/2005 Attorney Docket Number: 30289-1220	: : : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on July 7, 2007, for failure to timely submit a response to the final Office action mailed on April 6, 2007, 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 November 5, 2007. On January 23, 2009,

---

[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)).

a petition to withdraw the holding of abandonment was filed. On March 16, 2009, the petition was dismissed.

Petitioner has filed a Request for Continued Examination (RCE), and a copy of the previously filed amendment after final rejection as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 3625 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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	: 7626581	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1258** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO CA 92192-8289

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APR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Filiba, et al.	:	
Application No. 11/112,495	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. UTL 00414	:	
For: SYSTEM AND METHOD FOR PROVIDING IN-COMING CALL ALERT		

This is a decision on the petition, filed June 17, 2005 (certificate of mailing June 15, 2005), under 37 CFR 1.182 requesting a change to the order of inventors.

The current Rule 182 petition fee is $400.00. Petitioners paid $130.00 by credit card. The balance due, or $270.00 was charged to deposit account no. 50-3001 on June 20, 2005.

The petition is GRANTED.

The order of inventors will be: Filiba
Kaplan

A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be returned to Technology Center AU 2618 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/112,495	04/22/2005	2618	1330	UTL 00414	8	18	4

CONFIRMATION NO. 7645

REPLACEMENT FILING RECEIPT

OC000000018496597

32968
KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO, CA 92192-8289

Date Mailed: 04/10/2006

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)

Viktor Filiba, San Diego, CA;
Diego Kaplan, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number **32968**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/112,495

Projected Publication Date: 10/26/2006

Non-Publication Request: No

Early Publication Request: No

Title

System and method for providing in-coming call alerts

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KENNETH E. LEEDS
P.O. BOX 2819
SUNNYVALE, CA 94087-0819

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JUL 27 2006

OFFICE OF PETITIONS

In re Application of	:	
David Treves et al	:	
Application No. 11/112,536	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. K2004021	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor David Treves 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 2624 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
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Alexandria, VA 22313-1450
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KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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MAY 2 0 2009

OFFICE OF PETITIONS

In re Application of Clark et al. Application No. 11/112,540 Filed: April 21, 2005 Attorney Docket No. 26401/09639	: : : : :	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 7, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Kilpatrick Stockton LLP, has been revoked by the assignee of the patent application on March 22, 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: NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA, SC 29201

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NELSON MULLINS RILEY & SCARBOROUGH, LLP
IP DEPARTMENT
100 NORTH TRYON STREET 42ND FLOOR
CHARLOTTE, NC 28202

MAILED

OCT 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Clark et al.	:	DECISION ON PETITION
Application No. 11/112,540	:	TO WITHDRAW
Filed: April 21, 2005	:	FROM RECORD
Attorney Docket No. 26401/09639	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Nelson Mullins Riley & Scarborough, LLP was revoked by the assignee of the patent application on August 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- 6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JELD-WEN, INC. - STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

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MAY 06 2010

OFFICE OF PETITIONS

JAMES G. YORK
3738 SOUTH 3100 EAST
SALT LAKE CITY, UT 84109

In re Patent No. 6,996,858 :
Issue Date: February 14, 2006 :
Application No. 11/112,548 : ON PETITION
Filed: April 25, 2005 :
Title of Invention: TOILET SEAT APPARATUS :

This is a decision on the petition under 37 CFR 1.378(c)[1], filed March 11, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED.**

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued February 14, 2006. The patent expired for failure to timely pay the first maintenance fee. The window for payment of the first maintenance fee installment with a surcharge closed on February 14, 2010.

However, the petition under 37 CFR 1.378(c) is signed by John Siracusa, who is neither an attorney or agent registered to practice before the United States Patent and Trademark Office, nor is it clear that petitioner is a party in interest as required by 37 CFR 1.378(d). Since there is no indication that petitioner herein was ever empowered to handle matters regarding the instant patent, the petition to reinstate is not grantable. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney

[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:
(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(l)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

documentation must be submitted. If the new power of attorney and/or change of address is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). A courtesy copy of this decision will be mailed to petitioner. All future correspondence, however, will be mailed solely to the correspondence address of record.

Additionally, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division. A copy of the Fee Address form is included for your convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

JOHN SIRACUSA
7 EAST MAIN STREET, SUITE D
WINTERS, CA 95694

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6996858	2006-02-14	11112548	2005-04-25	STU643

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/JAMESG.YORK/	Date (YYYY-MM-DD)	2010-06-18
Name	JAMES G. YORK		

This collection of information is required by 37 CFR 1.378(c). 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 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6996858
Issue Date: February 14,2006
Application No. 11112548
Filed: April 25,2005
Attorney Docket No. STU643

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

Patricia A. Coburn, P.A.
Coburn Consulting
7846 Tipperary Ct. S.
Dublin, OH 43017-8510

COPY MAILED
APR 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Kenneth Morgenstern	:	DECISION GRANTING PETITION
Application No. 11/112,553	:	
Filed: April 25, 2005	:	
Atty Docket No. 001-KEM	:	

This is a decision on the "Petition Under 37 CFR 1.181 and 1.182" filed August 10, 2005. Applicant requests that the application be accorded a filing date of April 25, 2005, with page 4 of the specification considered part of the original application disclosure.

Application papers in the above-identified application were deposited on April 25, 2005. However, on June 6, 2005, applicant was mailed a NOTICE TO FILE CORRECTED APPLICATION PAPERS. Therein, applicant was advised *inter alia* that page 4 of the specification appeared to have been omitted. The Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

In support thereof, applicant submits the declaration of facts of the attorney of record, Patricia Coburn. Attorney Coburn attests to having personally counted all of the pages in the application (including the drawing) and listed that number of pages on the Return Post Card.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as prima facie evidence of receipt of any item, which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

Petitioner has submitted a postcard, which identifies the contents to include "Patent Application & Drawings (12 Sheets)." Petitioner now seeks to provide this as evidence of page 4 of the specification being present in the application on filing. It would be preferred that applicant more specifically identify the components as 11 pages of specification, including 2 pages of claims and 1 page of abstract, and 1 page of drawings.

Nonetheless, the postcard lacks any notation that any item listed on the postcard was not among the items received in the Office. A review of the application papers considered received in the Office on April 25, 2005, and page 4 of the specification resubmitted on petition filed August 10, 2005, reveals that these papers together constitute the papers identified on the postcard as "Patent Application & Drawings (12 Sheets)." In this instance, the evidence is persuasive that the application as filed included page 4 of the specification.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the request for refund of the petition fee of $400 is granted. The fee will be refunded to the Credit Card charged by the Office of Finance.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for:

- further processing with a filing date of April 25, 2005, using the application papers received in the Office and presently accorded that date; and page 4 of the specification re-supplied on petition filed August 10, 2005;

- processing of the replacement drawings sheet filed in response to the Notice.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

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NOV 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Craig R. Palmer, et al.	:	
Application No. 11/112,561	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. 05051236	:	FROM RECORD
	:	

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 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 Joseph A, Mahoney on behalf of all attorneys of record who are associated with customer No. 26565.

All attorneys/agents associated with the Customer Number 26565 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CRAIG R. PALMER
205 CORBETT AVENUE
SAN FRANCISCO, CA 94114

cc: JUDY M. ROBINETT
MEDICAL DISCOVERIES, INC.
1338 SOUTH FOOTHILL DRIVE
#266
SALT LAKE CITY, UT 84108

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,561	04/22/2005	Craig R. Palmer	05051236

CONFIRMATION NO. 7271

OC000000021267996

OC000000021267996

26565
MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO, IL 60690-2828

Date Mailed: 11/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/25/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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LEWIS, BRISBOIS, BISGAARD & SMITH LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CA 90012

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JAN 12 2007
OFFICE OF PETITIONS

In re Application of :
Lester : DECISION ON PETITION
Application No. 11/112,568 :
Filed: April 22, 2005 :
For: 28350-7 :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed November 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned for failure to timely reply to the non-final Office action mailed August 23, 2005. The Office communication set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed March 24, 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 carefully reviewed and found compliant with the provisions of 37 CFR 1.137(b).

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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DEC 2 4 2008

In re Application of	:	
Suaning et al.	:	
Application No. 11/112,571	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. SPRUS74.001AUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 9, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 10, 2007. A Notice of Abandonment was mailed November 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

Additionally, the power of attorney submitted November 20, 2008 has been accepted and a copy of the Notice of Acceptance of Power of Attorney is enclosed.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,571	04/25/2005	Gregg Jorgen Suaning	SPRUS74.001AUS

CONFIRMATION NO. 7414

POA ACCEPTANCE LETTER

OC000000033604541

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 12/15/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2008.

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.

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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McDermott Will & Emery, LLP
227 West Monroe Street
Chicago, IL 60606-5096

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard Treve Mildren, et. al.	:	
Application No. 11/112,573	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 3556 P 009	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 24, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 24, 2008. A Notice of Abandonment was mailed on October 1, 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 and two sheets of replacement drawings containing Figures 1-2; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on November 24, 2008 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 1797 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	
Application No. 11/112580	:	ON PETITION
Filed: 04/22/2005	:	
Attorney Docket No. PHM-11102/03	:	

This is a decision in reference to the "REQUEST FOR RECONSIDERATION OF THE HOLDING OF ABANDONMENT (MPEP §711.03)" filed ON 12 April, 2007, which is treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on 1 March, 2007, for failure to submit to timely submit corrected drawings as required by the Notice of Allowability mailed on 29 November, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 27 March, 2007.

Petitioners assert that no response to the Notice of Allowability was required because petitioners' counsel had discussed the drawing correction at issue prior to the mailing of the Notice of Allowability and that a corrected drawing sheet had been sent by e-mail to the examiner prior to the mailing of the Notice of Allowability. Petitioners further aver that "[a]pplicant's representative paid the issue fee on February 6, 2007, with the understanding that Figure 4 had been correctly updated by Examiner Khuu."

Petitioners' argument has been carefully considered, but is not persuasive. At the outset, a review of the record reveals that

no copy of the above-referenced replacement sheet of drawings is located in the file.

More to the point, as the Notice of Allowability was mailed after the telephone conference in which the drawings were discussed, the showing of record is that the drawings which had been filed as of the date the Notice was mailed were not acceptable. Rather, as the Notice of Allowability stated, replacement sheet(s) in accordance with the Examiner's Amendment or Comment were required. The showing of record is therefore that petitioners' counsel discussed drawing corrections with the examiner on 17 November, 2006, and the examiner indicated that corrected drawings were required. As such, petitioners were given actual notice in the Notice of Allowability that the drawings of record were not acceptable for issuance of a patent but failed to provide the replacement sheet(s).

Further, the Notice mailed on 29 November, 2006, states that corrected drawings are required and that "Applicant has THREE MONTHS FROM THE 'MAILING DATE' of this communication to file a reply complying with the requirements noted below. **Failure to timely comply will result in ABANDONMENT of this application.**" (emphasis added) Petitioners concededly failed to respond to the Notice of Allowability. Petitioners' argument is, in essence, that nothing was required to be filed in response to the Notice of Allowability because the corrected drawings required therein had already been filed. This argument lacks merit, however, because the Notice of Allowability clearly stated that a reply thereto was required to be filed, regardless of whether applicants believed that all of the examiner's requirements had already been fulfilled.

Further, there is no showing in the written record that the examiner agreed that no reply to the Notice of Allowability was required, or that the examiner, rather than the applicant was responsible for "correctly updating" the drawings. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

As such, the showing of record is that the abandonment resulted from the failure of petitioners to respond to the Notice of Allowability, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PO BOX 7021
TROY MI 48007-7021

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OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	
Application Number: 11/112580	:	DECISION ON PETITION
Filing Date: 04/22/2005	:	
Attorney Docket Number: PHM-11102/03	:	

This is a decision on the petition filed on 6 August, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 1 March, 2007, for failure to timely submit corrected drawings in response to the Notice of Allowability, mailed on 29 November, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 27 March, 2007. On 12 April, 2007, a petition to withdraw the holding of abandonment was filed. On 20 June, 2007,

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

the petition to withdraw the holding of abandonment was dismissed.

Receipt of the corrected drawings filed with the present petition is acknowledged.

This application is being referred to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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AUG 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Manjo Nijrolder	:	
Application No. 11/112,581	:	DECISION ON PETITION
Filed: 22 April, 2005	:	
Atty Docket No. P06257	:	

This is a decision on the petition filed on 22 July, 2005 (certificate of mailing date 19 July, 2005), under 37 CFR 1.53(e).

The petition is **GRANTED**.

On 22 April, 2005, the application was filed. On 19 May, 2005, however, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 22 April, 2005, but that, *inter alia*, Pages 13-15 of the specification (description and claims) appeared to have been omitted from the application. The Notice additionally stated that since the application was filed in a language other than English, an English translation of the application and a fee of $130.00 were required to be filed. A two (2)-month period for reply was set.

Petitioner argues that Pages 13-15 were present among the application papers filed on 22 April, 2005. Petitioner further states that the application was in fact filed in English, and that no translation or translation fee are required.

Upon further review, Pages 13-15 have been located among the application papers filed on 22 April, 2005. Therefore, the application as filed is entitled to a filing date of 22 April, 2005, with Pages 13-15 as a part of the original disclosure.

Additionally, a review of the originally-filed application papers reveals that the application was filed in English. As such, no English translation or fee for a non-English specification is required.

The Notice mailed on 19 May, 2005 is vacated to the extent that it states that (a) Pages 13-15 of the specification appeared to have been omitted, and (b) that the application was filed in a language other than English and that an English translation and fee of $130.00 are required.

The application will be processed and examined using the application papers, including Pages 13-15, filed on 22 April, 2005. The copies of the application papers filed with the present petition will not be used for processing or examination, but will be retained in the application file.

As the petition resulted from an Office error, the petition fee of $400.00 will be refunded to counsel's deposit account, No. 50-0208.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 22 April, 2005, using 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

In re Application of :
Manjo Nijrolder :
Application No. 11/112,581 : DECISION ON PETITION
Filed: April 22, 2005 :
Attorney Docket No. P06257 :

This is a decision on the petition, filed November 2, 2007, 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 April 24, 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 notice from the due date of the notice 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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of February 14, 2008, accompanies this decision on petition.

This application is being referred to Technology Center AU 2816 for appropriate action in the normal course of business on the reply received October 29, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,581	04/22/2005	Manjo Nijrolder	P06257

CONFIRMATION NO. 7405

23990
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P.O. DRAWER 800889
DALLAS, TX 75380

NONPUBLICATION RESCISSION LETTER

OC000000026672678

Date Mailed: 11/08/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/14/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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OFFICE OF PETITIONS

In re Application of	:	
Manjo Nijrolder	:	
Application No. 11/112,581	:	LETTER REGARDING
Filed: February 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.P06257	:	

This letter is in response to the "Good Faith and Candor Letter Regarding Patent Term Adjustment," filed February 20, 2008. Applicant requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for correction of the determination of patent term adjustment (PTA) is **dismissed**.

On November 20, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 256 days.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for applicant delay is correct. Applicant questions whether a period of reduction should be entered for the period of abandonment associated with their failure to timely notify the Office of a foreign or international filing. Applicant discloses pursuant to their duty of candor, but suggests that no period of reduction should be entered as the prosecution of the application continued.

37 CFR 1.704(c)(3) establishes abandonment of the application or late payment of the issue fee as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. However, this provision is directed to abandonment for failure to prosecute or late payment of the issue fee. Under such circumstances, the Office is precluded from processing or

examining the application as a result of an action or inaction by the applicant. See MPEP 2732. Abandonment for failure to notify the Office of a foreign filing is not a failure to engage within the meaning of 37 CFR 1.704(c)(3). Thus, the Office was correct in not entering a period of reduction.

Applicant also states that an amendment under 37 CFR §1.312 was filed and thus a reduction in the patent term adjustment calculation is warranted. The Patent will issue with any reductions due to the filing of the 312 amendments, as well as, any other paper, after the mailing of the notice of allowance. If patentee disputes these additional reductions, a request for reconsideration under 1.705(d) within 2 months of the issuance of the patent must be filed.

In view thereof, the initial determination of Patent Term Adjustment remains TWO HUNDRED FIFTY-SIX (256) days.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Qiang Wang	: DECISION ON REQUEST FOR
Patent Number	: 7599560	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **923** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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EDWARD SCOTT JARMOLOWICZ, ESQ.
TYCO HEALTHCARE GROUP LP
15 HAMPSHIRE STREET
MANSFIELD, MA 02048

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OFFICE OF PETITIONS

In re Application of
David Rork Swisher
Application No. 11/112,625
Filed: April 22, 2005
Attorney Docket No. S-8507 US (1)

DECISION GRANTING PETITION

This is a decision on the petition, filed May 20, 2005, requesting that the above-identified application be accorded a filing date of April 22, 2005, instead of the presently accorded date of April 21, 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 22, 2005, pursuant to 37 CFR 1.10. In support, petitioners provide a copy of the receipt for Express Mail Label No. EV 593582004 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 "04 21 05," it also includes a "USPS" receipt stamp date of "APR 22 2005." In view of the conflicting dates on the mailing label, restoration of the USPS Track/Confirm record for Express Mail Label No. EV 593582004 US was requested. The record corroborates acceptance of the "Express Mail" package in question on April 22, 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 22, 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

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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Sunay Tripathi	: DECISION ON REQUEST FOR
Patent Number	: 7627899	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1258** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ADVANCED BIONICS, LLC
25129 RYE CANYON LOOP
VALENCIA CA 91355

In re Application of	:	
Todd K. Whitehurst, et al.	:	
Application No. 11/112,630	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. AB-173U1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008

The request is **NOT APPROVED**.

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, "ownership transfer", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Boston Scientific Neuromodulation Corp.
c/o Frommer Lawrence & Haug LLP
745 Fifth Ave
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Todd K. Whitehurst	: DECISION ON REQUEST FOR
Patent Number	: 7660631	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,630	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1006** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/27/2010

Applicant	: Ronald L. Mahany	: DECISION ON REQUEST FOR
Patent Number	: 7609747	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/112,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1001** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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In re Patent No. HAUG ET AL.	:	**DECISION GRANTING PETITION**
Issue Date: 24 July 2007	:	*37 CFR 1.324*
Appl No.: 11/112,638	:	
Filed: April 22, 2005	:	
For: Process for the Collection and Presentation of an X-Ray Image Stored in a Phosphor Layer	:	

This is a decision on the petition filed 22 August 2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David P. Porta
Supervisory Patent Examiner
Art Unit 2884
Technology Center 2800

HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Xinghua Wang et al :
Application No. 11/112,654 : ON PETITION
Filed: April 22, 2005 :
Attorney Docket No. E2079-00096 :

This is a decision on the petition, filed July 10, 2007, 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 **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. No additional petition fee is required.

A review of the file record shows that a Request to Rescind was filed on July 10, 2007. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b). A courtesy copy of a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: blank copy of a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) form

PTO/SB/64a (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	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 pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

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. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is _____.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice 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

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

COPY MAILED

OCT 04 2007

OFFICE OF PETITIONS

In re Application of
Xinghua Wang et al
Application No. 11/112,654
Filed: April 22, 2005
Attorney Docket No. E2079-00096

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed July 31, 2007, 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 April 21, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 10, 2008 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to Technology Center Art Unit 2873 for examination in due course.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/112,654	04/22/2005	Xinghua Wang	E2079-00096

CONFIRMATION NO. 6725

41396
DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

Date Mailed: 10/02/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/10/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
BRYANT-GREENWOOD et al.	:	
Application No. 11/112,659	:	ON APPLICATION FOR
Filed: April 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. UOH1360-1US	:	
(080936-0503)	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed March 9, 2009, which is properly treated under 37 CFR 1.705(b). Applicant requests that the determination of patent term adjustment be corrected to 536 days. Applicant requests this correction 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, 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 September 12, 2008.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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FISH & RICHARDSON PC
P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Henry A. Hill, et al :
Application No. 11/112,681 : DECISION GRANTING PETITION
Filed: April 22, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09712-395001/Z-507 :

This is a decision on the petition, filed August 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 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 2877 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\Aug9\112681.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SILLS CUMMIS EPSTEIN & GROSS P.C.
ONE RIVERFRONT PLAZA
IP DEPARTMENT
NEWARK NJ 07102

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FEB 2 0 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Parlionas, Evangelia :
Application No. 11/112,687 :
Filed: April 22, 2005 :
Attorney Docket No. 060004U001 :

This is a decision on the petition under 37 CFR 1.182, filed, December 29, 2006, to change the name of inventor from "Evangelia KREMEZIS" to – Evangelia PARLIONAS --.

The petition is **GRANTED**.

Office records have been corrected to reflect the name change of the above-named inventor. A corrected Filing Receipt, which sets forth the name change of the above-named inventor, accompanies this decision on petition.

The issue fee in this case was paid on January 24, 2007. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to the undersigned at (571) 272-571-272-3206.

This matter is being directed to the Publishing Division.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/112,687	04/22/2005	3751	800	060004U001	4	20	2

CONFIRMATION NO. 7436
CORRECTED FILING RECEIPT
OC000000022545586
OC000000022545586

43309
SILLS CUMMIS EPSTEIN & GROSS P.C.
ONE RIVERFRONT PLAZA
IP DEPARTMENT
NEWARK, NJ 07102

Date Mailed: 02/20/2007

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)

Evangelia Parlionas, Beechhurst, NY;

Power of Attorney: The patent practitioners associated with Customer Number **43309**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/112,687

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

RETRACTABLE APPLICATOR SYSTEM

Preliminary Class

401

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

EMERY L. TRACY
P.O. BOX 1518
BOULDER, CO 80306

In re Application of
Anthony Owens
Application No. 11/112,703
Filed: April 24, 2005
Attorney Docket No. None

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 2, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before January 3, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 3, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 4, 2009. A Notice of Abandonment was mailed on January 30, 2008. On October 2, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $755 issue fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PARSONS BEHLE & Latimer
201 SOUTH MAIN STREET
SUITE 1800
P. O. BOX 45898
SALT LAKE CITY, UT 84111

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JUN 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Calvin D. Ostler, et al.	:	
Application No. 11/112,720	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. 5110.3a P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Parsons, Behle & Latimer, LLP has been revoked by the assignee of the patent application on June 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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: CAO GROUP INC.
4628 WEST SKYHAWK DRIVE
WEST VALLEY CITY, UT 84084

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,720	04/22/2005	Calvin D. Ostler	5110.3a P

CONFIRMATION NO. 5591

OC000000024441943

Parsons Behle & Latimer
201 South Main Street, Suite 1800
P. O. Box 45898
Salt Lake City, UT 84111

Date Mailed: 06/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/06/2007.

o The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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VAN COTT, BAGLEY, CORNWALL & MCCARTHY
P.O. BOX 45340
SALT LAKE CITY UT 84145-0340

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Calvin D. Ostler et al	:	
Application No. 11/112,721	:	DECISION GRANTING PETITION
Filed: April 22, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 29618-62164	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of October 16, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Publishing Division.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

In re Application of	:
Morris, et al.	: DECISION ON PETITION
Application No. 11/112,723	:
Filed: April 21, 2005	:
Atty. Dkt. No.: DMI-003CP2	:

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 24, 2006.

The petition under 37 CFR 1.181 is hereby **GRANTED**.

This application was held abandoned July 17, 2005, for failure to timely file a proper response to the Notice to File Missing Parts (Notice) mailed May 16, 2005. The Notice set a two month shortened statutory period for reply. Notice of Abandonment was mailed January 31, 2006.

Petitioner argues that a response to the Office communication was timely submitted July 7, 2005 in accordance with the provisions of 37 CFR 1.10. Petitioner has included a copy of the response to the Notice. The copy of the response bears the same Express Mail label number as shown on the copy of the Express Mail label submitted herewith as required per 37 CFR 1.10(e).

A review of the application file does not indicate receipt of the response purportedly submitted July 7, 2005, however, the response will be considered timely as it complies with the requirements of 37 CFR 1.10(e).

In view of the above, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 07/12/2010

Applicant	: Lauri Tarkkala	: DECISION ON REQUEST FOR
Patent Number	: 7640593	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/112,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1282** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of

Calvin D. Ostler, et al.
Application No. 11/112,731
Filed: April 22, 2005
Attorney Docket No. 5110.2a P

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 17, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CAO GROUP, INC.
4628 WEST SKYHAWK DRIVE
WEST VALLEY CITY, UT 84084

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OFFICE OF PETITIONS

In re Application of

Calvin D. Ostler, et al.
Application No. 11/112,731
Filed: April 22, 2005
Attorney Docket No. 5110.2a P

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 8, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CAO GROUP, INC.
4628 WEST SKYHAWK DRIVE
WEST VALLEY CITY, UT 84084

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
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MADISON WI 53701-1497

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OFFICE OF PETITIONS

Applicant: Botez	: ON PETITION
Issue Date : Nov. 25, 2008	: 37 CFR 1.705(d)
Application No: 11/112,749	:
Patent No. 7,457,340	: REQUEST FOR RECON
Filed: April 22, 2005	: PATEN TERM ADJUSTMENT
Attorney Docket: 032026-0874	:

This is a decision on the petition filed on January 23, 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 five hundred and seventy one (571) 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 five hundred and seventy-one(571) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and seventy-one (571)** 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 Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction
Copy of adjusted PTA calulation

Day : Wednesday

PALM INTRANET

Date: 7/14/2010
Time: 09:29:46

PTA Calculations for Application: 11/112749			
Application Filing Date:	04/22/2005	PTO Delay (PTO):	404
Issue Date of Patent:	11/25/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	50
Post-Issue Petitions:	0	Total PTA (days):	571
PTO Delay Adjustment:	217		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	07/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	217		
55.5	11/05/2008	PTA 36 MONTHS			
55	11/25/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
54	10/28/2008	EXPORT TO FINAL DATA CAPTURE			
53	10/27/2008	DISPATCH TO FDC			
52	10/27/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
51	10/23/2008	ISSUE FEE PAYMENT VERIFIED			
50	10/23/2008	ISSUE FEE PAYMENT RECEIVED			
49	09/12/2008	FINISHED INITIAL DATA CAPTURE			
48	08/11/2008	EXPORT TO INITIAL DATA CAPTURE			
47	08/07/2008	MAIL NOTICE OF ALLOWANCE			
46	08/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	08/05/2008	ISSUE REVISION COMPLETED			
44	08/05/2008	DOCUMENT VERIFICATION			
43	07/30/2008	NOTICE OF ALLOWABILITY			
41	07/14/2008	DATE FORWARDED TO EXAMINER			
40	07/07/2008	AMENDMENT AFTER FINAL REJECTION			
39	06/18/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
38	06/16/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	05/08/2008	MAIL FINAL REJECTION (PTOL - 326)			
36	05/07/2008	FINAL REJECTION			
35	12/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

34	12/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	02/27/2008	DATE FORWARDED TO EXAMINER			
32	02/08/2008	RESPONSE AFTER NON-FINAL ACTION		50	28
31	01/11/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
30	12/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	01/11/2008	DATE FORWARDED TO EXAMINER			
28.1	12/20/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
28	12/20/2007	RESPONSE AFTER NON-FINAL ACTION			
27	12/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	09/20/2007	MAIL NON-FINAL REJECTION			
25	09/12/2007	NON-FINAL REJECTION			
22	07/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	11/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	09/04/2007	DATE FORWARDED TO EXAMINER			
19	08/31/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
18	07/31/2007	MAIL RESTRICTION REQUIREMENT	404		-1
17	07/23/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
16	01/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
15.7	11/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/02/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	11/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	07/05/2005	REFERENCE CAPTURE ON IDS			
11.7	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	07/05/2005	PRELIMINARY AMENDMENT			
9	07/19/2005	APPLICATION DISPATCHED FROM OIPE			
8	07/19/2005	APPLICATION IS NOW COMPLETE			
		PAYMENT OF ADDITIONAL FILING			

7	07/05/2005	FEE/PREEXAM			
5	07/05/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	05/18/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/09/2005	CLEARED BY OIPE CSR			
2	05/01/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/22/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Fourteenth Floor
Atlanta, GA 30309-3488

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OFFICE OF PETITIONS

In re Application of	:	
McJunkin JR., et al.	:	
Application No. 11/112,750	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. 142561.00001-P1432US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2006.

The request is **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 Jason A. Bernstein on behalf of all attorneys of record who are associated with customer No. 25207. All attorneys/agents associated with the Customer Number 25207 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Product M, LLC
Howard P. McJunkin, Jr.
817 W. Peachtree Street
Suite A115
Atlanta, GA 90308

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Takahiro Komiya	: DECISION ON REQUEST FOR
Patent Number	: 7578054	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **554** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NEW YORK NY 10036-8403

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OFFICE OF PETITIONS

In re Patent No. 7,255,289

Issue Date: August 14, 2007

Application No. 11/112,786

Filed: April 21, 2005

Attorney Docket No. P/2528-28

ON PETITION

This is a decision on the petition filed March 4, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The fee for the instant request is $130.00. The amount of $130.00 will be charged to deposit account 15-0700 accordingly.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file will be directed to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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IMDS, INC.
124 SOUTH 600 WEST
LOGAN, UT 84321

Mail Date: 04/26/2010

Applicant	: E. Marlowe Goble	: DECISION ON REQUEST FOR
Patent Number	: 7641694	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/112,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Tomoyuki Asano	: DECISION ON REQUEST FOR
Patent Number	: 7587597	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,830	: OF WYETH
Filed	: 04/22/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080812

DATE : September 11, 2008

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction on Patent No.: 7384783

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The proposed changes address typographical errors.

SPE: /Joseph Woitach/ **Art Unit** 1633

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Jack Creasey	: DECISION ON REQUEST FOR
Patent Number	: 7590269	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1091** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DEC 20 2006
OFFICE OF PETITIONS

Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

In re Application of

Stephen B. Colvin et al.
Application No. 11/112,842
Filed: April 22, 2005
Attorney Docket No. 036014-022

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Hal J. Bonner on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Stephen B. Colvin**
52 East End Avenue
New York, NY 10025

cc: **Mark Fox Evens, Esq.**
Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, NW
Washington D.C. 20005-3934

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/112,842	04/22/2005	Stephen B. Colvin	036014-022

CONFIRMATION NO. 5651

OC000000021669501

OC000000021669501

Robert E. Krebs
THELEN REID & PRIEST, LLP
P.O. BOX 640640
San Jose, CA 95164-0640

Date Mailed: 12/19/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/25/2010

Applicant	: Randall T. Lashinski	: DECISION ON REQUEST FOR
Patent Number	: 7641686	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/112,847	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **73** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

Mavis S. Gallenson
LADAS & PARRY
Suite 2100
5670 Wilshire Boulevard
Los Angeles, CA 90036-5679

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MAR 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Hansen et al.	:	DECISION REFUSING STATUS
Application No. 11/112,852	:	UNDER 37 CFR 1.47
Filed: April 22, 2005	:	
Atty Docket No. B-5603CONT	:	
622593-3	:	

This is in response to the "PETITION FOR FEE FOR FILING BY OTHER THAN ALL THE INVENTORS (37 CFR 1.47(a))," filed October 20, 2005.

The petition is **DISMISSED**.

Rule 47 applicants are 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 inventors. 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 22, 2005, without a declaration executed by all of the joint inventors and missing the statutory basic filing fee. Accordingly, on May 18, 2005, applicants were mailed a "Notice to File Missing Parts of

Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration, the missing filing fees and the surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed declarations executed in combination by all of the joint inventors, except inventors Christopher Spindt and Jerome Truppa; the missing filing fees; the surcharge under § 1.16(e); and the instant petition under § 1.47(a). This response was made timely by an accompanying petition (and fee) for extension of time within the third month. Applicants assert that status under § 1.47(a) is proper because joint inventors Spindt and Truppa have not responded to the requests to sign the declaration. In support thereof, applicants submitted the statement of facts of Mary Milligan.

A grantable petition under 37 CFR § 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).

As to requirement (1), petitioner has not shown that inventors Spindt and Truppa have refused to join in the application as required by § 1.47. Before a refusal can be alleged, applicants must demonstrate that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Petitioners have not provided evidence that the application papers (specification, including claims, drawings, and oath or declaration) were presented to the non-signing inventors. Ms. Milligan states in her memoranda that she enclosed a copy of the unsigned declaration/power of attorney in her communications to the non-signing inventors. In addition, the copies of the memorandum supplied merely state "You should have a copy of the original parent application as filed." Such a speculative statement does not establish that the non-signing inventors were presented with all of the application papers.

Thus, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, was presented to the non-signing inventors (or to their attorneys) and they subsequently refused to sign (either expressly or by their conduct in not responding). If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventors, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

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

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Paper No.

Mavis S. Gallenson
LADAS & PARRY
Suite 2100
5670 Wilshire Boulevard
Los Angeles, CA 90036-5679

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OFFICE OF PETITIONS

In re Application of	:	
Hansen et al.	:	DECISION ACCORDING STATUS
Application No. 11/112,852	:	UNDER 37 CFR 1.47
Filed: April 22, 2005	:	
Atty Docket No. B-5603CONT	:	
622593-3	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)," filed October 20, 2006.

The petition is **GRANTED**.

The above-identified application was filed on April 22, 2005, without a declaration executed by all of the joint inventors and missing the statutory basic filing fee. In response to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed May 18, 2005, on October 20, 2005, applicants requested that the Office accept a declaration executed in combination by all of the joint inventors, except inventors Christopher Spindt and Jerome Truppa. Applicants assert that status under § 1.47(a) is proper because joint inventors Spindt and Truppa have not responded to the requests to sign the declaration.

By decision mailed March 17, 2006, the petition was dismissed for failure to show that inventors Spindt and Truppa had refused to join in the application as required by § 1.47. Petitioner

had not provided evidence that the application papers (specification, including claims, drawings, and oath or declaration) were presented to the non-signing inventors.

On instant renewed petition, applicants submitted a declaration signed by previously non-signing inventor Truppa on behalf of himself and on behalf of non-signing inventor Spindt. In addition, the renewed petition included an additional showing that inventor Spindt has been presented with all of the application papers. In addition, it was shown that inventor Spindt, by his conduct in not responding to the request to sign the declaration after having been presented with the application papers, has refused to join in the application.

The declarations filed October 20, 2005 and October 20, 2006, have been reviewed and found in compliance with § 1.63. The petition includes the petition fee and the last known address of inventor Spindt.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision 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
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Paper No.

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

JUL 12 2010

OFFICE OF PETITIONS

In re Patent No. 7621483	: DECISION ON REQUEST
Cozens et al.	: FOR
Issue Date: 11/24/2009	: RECONSIDERATION OF
Application No. 11/112859	: PATENT TERM ADJUSTMENT
Filed: 04/22/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
2733.31US01	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-one (1191) 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 ninety-one (1191) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred ninety-one (1191)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,621,483 B2

DATED : **Nov. 24, 2009** **DRAFT**

INVENTOR(S) : Cozens 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 660 days.

Delete the phrase "by 660 days" and insert – by 1191 days--

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ALEXANDRIA, VA 23313-1450
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Mailed: 6/21/06

In re Application of Burrows et al.
Serial No.: 11/112,860
Filed: April 22, 2005

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: METHOD FOR EDGE SEALING BARRIER FILMS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed May 03, 2006 to correct inventorship under 37 CFR 1.48(a) by adding the names of Charles C. Bonham, Wendy D. Bennett, and Michael G. Hall to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, if assigned, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Harold Y. Pyon 5/30/06
Harold Y. Pyon
Supervisory Patent Examiner
Art Unit 1772
Technology Center 1700

Patricia L. Prior
One Dayton Centre
One South Main Street, Suite 1300
Dayton, Ohio 45402-2023

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND, OR 97205-3335

Mail Date: 04/21/2010

Applicant	: Yoji Onishi	: DECISION ON REQUEST FOR
Patent Number	: 7656278	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,866	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **991** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/21/2010

Applicant	: Ken Wadland	: DECISION ON REQUEST FOR
Patent Number	: 7594215	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,868	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **237** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Carr, LLP
670 Founders Square
900 Jackson Street
Dallas, TX 75202

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OFFICE OF PETITIONS

In re Application of :
Christina Kaing Liu :
Application No. 11/112,872 : DECISION ON PETITION
Filed: April 21, 2005 :
Attorney Docket No. Vend 3714000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 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 to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed May 16, 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. The application became abandoned on July 17, 2005. A Notice of Abandonment was mailed on February 1, 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 (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 17, 2005. That party, in turn must explain what effort(s) was made to further reply to the Notice and, further, why no response was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as H. Black, P.E. was counsel of record at the time of abandonment, an explanation is required as to why this application became abandoned while it was under his control and what efforts were made by H. Black to further reply of itself and with whom this matter was discussed outside of H. Black's office. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from responsible person(s), counsel of record at the time, and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at H. Black's office, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The

December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at H. Black's office and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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 $820.00 extension of time fee submitted with the petition on September 14, 2007 was subsequent to the maximum extendable period for reply, this fee was unnecessary. The Notice of May 16, 2005 required a filing fee, a search fee, and an examination fee, which total $515. As these fees were not submitted with the petition, they have been subtracted from the unnecessary $820.00 extension of time fee, leaving an excess balance of $305.00 to be credited to petitioner's deposit account.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

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

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OFFICE OF PETITIONS

Carr, LLP
670 Founders Square
900 Jackson Street
Dallas, TX 75202

In re Application of	:	
Christina Kaing Liu	:	
Application No. 11/112,872	:	DECISION ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. Vend 3714000	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 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 reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed May 16, 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. The application became abandoned on July 17, 2005. A Notice of Abandonment was mailed on February 1, 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 (3).

As to item (3), the record indicates that H. Black was responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from H. Black explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to H. Black at current address, by certified or registered mail (return receipt requested) indicating that the Patent and Trademark Office is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the Patent and Trademark Office is requesting that H. Black provide within a specified period (*e.g.*, one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner was advised that in the event that H. Black does not provide such a statement, petitioner should submit a copy of such letter and the return receipt.

The showing of record raises the question as why the applicant (assignee) failed to inquire about the status of the application between the dates of May 30, 2005 and April 18, 2007. Preoccupation with other projects was stated by the applicant (assignee) as a reason in the renewed petition, but further explanation or documentation is requested.

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Carr, LLP
670 Founders Square
900 Jackson Street
Dallas, TX 75202

In re Application of	:	
Christina Kaing Liu	:	
Application No. 11/112,872	:	DECISION ON PETITION
Filed: April 21, 2005	:	
Attorney Docket No. Vend 3714000	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 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 Notice to File Missing Parts of Non-Provisional Application (Notice), mailed May 16, 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. The application became abandoned on July 17, 2005. A Notice of Abandonment was mailed on February 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a replacement drawings, oath and declaration, with a $65 surcharge fee, $155 basic filing fee, $255 search fee, $50 excessive claim fee, and $105 examination fee, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the oath and declaration, replacement drawings and fees are accepted as being unintentionally delayed.

Telephone inquiries should be directed to the Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received October 16, 2007.

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

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JUN 07 2010

OFFICE OF PETITIONS

Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

In re Application of	:	
Suresh S. PAI, et *al.*	:	
Application No. 11/112,877	:	DECISION ON PETITION
Filed: April 22, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **ACI-011**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; 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 Technology Center AU 3763 for appropriate action by the Examiner in the normal course of business on the reply received April 30, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **VISTA IP LAW GROUP, LLP**
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

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APR 13 2009

OFFICE OF PETITIONS

VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET, SUITE 2500
SAN FRANCISCO CA 94105

In re Application of	:	
DIEDEN, Andrew et al.	:	
Application No. 11/112,891	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. **PREP-01000US1**	:	FROM RECORD
	:	

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 05, 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 Brian I. Marcus on behalf of all attorneys of record who are associated with customer No. 28554. 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 Andrew L. Dieden at the address indicated below.

There is an outstanding Office action mailed January 15, 2009 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: **ANDREW L. DIEDEN**
232 E. BLITHEDALE AVENUE
SUITE 204
MILL VALLEY, CA 94941

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Chang-Ho Suh	: DECISION ON REQUEST FOR
Patent Number	: 7602872	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,906	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1137** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENNETH E. LEEDS
P.O. BOX 2819
SUNNYVALE CA 94087-0819

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OFFICE OF PETITIONS

In re Application of	:	
Treves et al.	:	
Application No. 11/112,909	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. K2004022	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a Declaration from the applicant, David Treves. 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 2877 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOUSTON IP DEPARTMENT
JACKSON WALKER LLP
1401 MCKINNEY ST.
SUITE 1900
HOUSTON, TX 77010

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OFFICE OF PETITIONS

In re Application of	:	
Michael L. **MCGAR**, et al	:	
Application No. 11/112,920	:	DECISION ON PETITION
Filed: April 22, 2005	:	TO WITHDRAW
Attorney Docket No. 125077.0009.000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 28, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Mark a. Tidwell does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the address indicated above until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALCHEMY SYSTEM, L.P.
8015 SHOAL CREEK BLVD.,
SUITE 100
AUSTIN, TX 78757

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Nicolas G. Droux	: DECISION ON REQUEST FOR
Patent Number	: 7593404	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **918** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Nicolas G. Droux	: DECISION ON REQUEST FOR
Patent Number	: 7591011	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1155** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Kilpatrick Stockton LLP- Adobe Systems, Inc. 58083
Kilpatrick Stockton LLP
1100 Peachtree Street
Atlanta, GA 30309-4530

Mail Date: 04/21/2010

Applicant	: Randall Edmunds	: DECISION ON REQUEST FOR
Patent Number	: 7640505	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/112,964	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

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DEC 04 2009

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of Bohaker et al.	:	
Application No. 11/112,965	:	On Application For
Filing Date: April 22, 2005	:	Patent Term Adjustment
Attorney Docket No. 28820-541002US	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(b)" filed August 31, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is six hundred forty-three (643) days, not three hundred ninety-one (391) 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 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The $200 fee set forth in 37 CFR 1.18(e) for consideration of applications for patent term adjustment under 37 CFR 1.705(b) has been charged to Deposit Account No. 50-0311.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

JUN 11 2010

OFFICE OF PETITIONS

In re Patent of Bohaker et al.	:	DECISION ON REQUEST
Patent No. 7,646,425	:	FOR RECONSIDERATION OF
Issue Date: January 12, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/112,965	:	AND NOTICE OF INTENT TO
Filing Date: April 22, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 38820-541002US	:	CORRECTION

This is a decision on the petition filed March 12, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by six hundred forty-three (643) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by six hundred forty-three (643) days is **GRANTED**.

Although a $200 fee was previously paid for a petition under 37 C.F.R. § 1.705(b), a separate fee of $200 is required for the instant petition. Therefore, $200 has been charged to Deposit Account No. 50-0311.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **six hundred forty-three (643)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,646,425 B2
APPLICATION NO.	:	11/112,965
DATED	:	January 12, 2010
INVENTOR(S)	:	David Bohacker et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 403 days.

Delete the phrase "by 403 days" and insert -- by 643 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE
ONE SOUTH MAIN STREET, SUITE 1300
DAYTON OH 45402-2023

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MAR 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Chagnot et al.	:	
Application No. 11/112,979	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. STI 0018 PA/40741.74	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 18, 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 Response to Election/Restriction Requirement, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3744 for further examination on the merits.

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
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MANELLI DENISON & SELTER PLLC
FLOOR 7th
2000 M STREET, N.W.
WASHINGTON DC 20036-3307

MAILED

APR 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,355,990	:	
Issued: April 8, 2008	:	
Application No. 11/113,033	:	DECISION ON PETITION
Filed: April 25, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SMITH ET AL.	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 12, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition items (1) and (3) of the above-listed items.

With regards to item (1), since the instant application matured into Patent No.7,355,990 on April 8, 2008, 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 prior-filed nonprovisional applications after issuance of the application into a patent. Petitioner did not include a Certificate of Correction with the

instant petition. Further, the Certificate of Correction filed April 10, 2008 and granted July 15, 2008 did not include the relationship of priority now being requested by petitioner. Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a Certificate of Correction and fee, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

With regards to item (3) petitioner has failed to sign the petition.

Further, it is not apparent whether the person submitting the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. Additionally, the address given on the petition differs from the address of record. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Steven M. Evans
Flachsbart & Greenspoon, LLC
53 W. Jackson Blvd., Suite 652
Chicago, IL 60604

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FLACHSBART & GREENSPOON, LLC
333 N. MICHIGAN AVE.
27TH FLOOR
CHICAGO IL 60601

MAILED

JUN 07 2010

OFFICE OF PETITIONS

Patent No. 7,355,990	:
Issued: April 8, 2008	:
Application No. 11/113,033	: DECISION ON PETITION
Filed: April 25, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SMITH ET AL.	:

This is a decision on the renewed petition, filed May 17, 2010, 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 a nonprovisional application, 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 25, 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 as 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.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter 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).

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/113,033	04/25/2005	2617	1750	SMITH ET AL.	1	1

CONFIRMATION NO. 7856

CORRECTED FILING RECEIPT

93344
FLACHSBART & GREENSPOON, LLC
333 N. MICHIGAN AVE.
27TH FLOOR
CHICAGO, IL 60601

OC000000041953366

Date Mailed: 06/04/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Richard A. Smith, Annapolis, MD;
Johanna Wilson, Annapolis, MD;

Power of Attorney: The patent practitioners associated with Customer Number 93344

Domestic Priority data as claimed by applicant

This application is a CON of 09/588,460 06/06/2000 PAT 6,891,811

Foreign Applications

If Required, Foreign Filing License Granted: 05/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/113,033**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MOBILE-ORIGINATED TO HTTP INTERNET COMMUNICATIONS

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/113,033	04/25/2005	Richard A. Smith	SMITH ET AL.

CONFIRMATION NO. 7856

POA ACCEPTANCE LETTER

93344
FLACHSBART & GREENSPOON, LLC
333 N. MICHIGAN AVE.
27TH FLOOR
CHICAGO, IL 60601

OC000000041861427

Date Mailed: 05/28/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/17/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 2009/11/16

DATE : Sept. 12, 2009

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/113035 Patent No.: 7337205

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Robert C. Kuhn	: DECISION ON REQUEST FOR
Patent Number	: 7664240	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,057	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 05/18/2010

Applicant : Robert C. Kuhn
Patent Number : 7664240
Issue Date : 02/16/2010
Application No : 11/113,057
Filed : 04/25/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1266** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,420,118	:
Issued: September 2, 2008	: DECISION REGARDING PTA AND
Application No. 11/113,065	: CERTIFICATE OF CORRECTION
Filed: April 25, 2005	:
Atty. Dkt. No.: 07043.0037-01	:

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT," filed October 31, 2008. The matter is being properly treated pursuant to 37 CFR 1.705(d) as an application for patent term adjustment.

The request for reconsideration patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,420,118 on September 2, 2008. The patent issued with a PTA of 509 days. The instant 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 determination for the above-identified patent be changed from 509 days to 639 days.

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) and argue that the patent is entitled to an additional adjustment of 130 days pursuant to 37 CFR 1.702(b).

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 during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704.

The Office agrees that as of the issuance of the patent on September 2, 2008, the application was pending three years and

130 days after its filing date. The Office agrees that because certain action was not taken within a specified time frame, the patent is entitled to an adjustment of 540 days pursuant to 37 CFR 1.702(a)(1). At issue is whether patentees should accrue an additional 130 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 540 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 130 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 USC 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 USC 154(b)(2)(A) as permitting either patent term adjustment under 35 USC 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 USC 154(b)(1)(B), but not as permitting patent term adjustment under both 35 USC 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 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 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 USC 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 USC 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 USC 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 USC 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 USC 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 USC 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 USC 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 USC] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 USC 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 USC] 181 and administrative delay under [35 USC] 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 USC 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 USC 154(b)(2)(A) is the entire period during which the application was pending before the Office, April 25, 2005, to the date the patent issued on September 2, 2008. Prior to the issuance of the patent, 540 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. The 540 days accorded pursuant to 37 CFR 1.702(a)(1) overlap with the 130 days of Office delay under 37 CFR 1.702(b).

The application actually issued three years and 130 days after its filing date. The Office did not delay 540 days and then delay an additional 130 days. Accordingly, 540 days of patent

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

term adjustment (not 540 days and 130 days) was properly entered because the period of delay of 130 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 540 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted. Thus, 540 days is determined to be the actual number of days that the issuance of the patent was delayed.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required $200.00 application fee. See, 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia Brown
Petitions Attorney
Office of Petitions

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Aiache, et al.	:	
Application No. 11/113,072	:	ON APPLICATION FOR
Filed: April 25, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2121-0168PUS2	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed August 7, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred ninety-five (1,195) days, not seven hundred and seven (707) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Pursuant to applicant's authorization, the Office will charged deposit account no. 02-2448 the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Jean-Marc Aiache	: DECISION ON REQUEST FOR
Patent Number	: 7651698	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1265** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Woodcock, Washburn, LLP
(Microsoft Corporation)
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

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OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Siddhartha Singh et al.	:	
Application No. 11/113,112	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. MSFT-4776/311609.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of October 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is January 31, 2009. A Notice of Abandonment was mailed on June 22, 2009. A reply was received on January 30, 2009 but failed to place the application in condition for allowance.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2191 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 23, 2006

TO SPE OF : PCT 5000

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/113119 Patent No.: 7,081,289 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. *110*

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: _____

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
SPE

1794
Art Unit

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Paper No. 23

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
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OFFICE OF PETITIONS

In re Application of Cheryl D. Senter, Johannes Wang, Le Trong Nguyen, Derek J. Lentz, Yoshiyuki Miyayama, Sanjiv Garg, Yasuaki Hagiwara, Te-Li Lau, Sze-Shun Wang and Quang H. Trang Application No. 09/336,589 Filed: June 21, 1999 Attorney Docket No. SP036.C5	DECISION GRANTING PETITIONS UNDER § 1.48(c) and § 1.183

This is a combined decision on the three petitions filed June 18, 2002: 1) Request to Add Inventors in a Nonprovisional Patent Application Under 37 C.F.R. § 1.48(c); Petition for Waiver Under 37 C.F.R. § 1.183 of the Requirement under § 1.48(c)(2) of Statements by Persons Being Added as an Inventor; and a Petition under 37 C.F.R. § 1.47, which is properly treated as a Petition under § 1.183 to waive the Requirement under § 1.48(c)(3) for execution of the declaration by all of the actual inventors. Petitioner has submitted a check for $390, which covers the processing fees for consideration of the petitions. These petitions were considered in light of the additional evidence provided by facsimile transmission on October 4, 2002 and October 7, 2002.

The above-identified application was filed on June 21, 1999, with a declaration executed by Cheryl Senter and Johannes Wang as joint inventors. On June 18, 2002, the instant request under § 1.48(c) was filed to amend the inventorship to add joint inventors Le Trong Nguyen, Derek J. Lentz, Yoshiyuki Miyayama, Sanjiv Garg, Yasuaki Hagiwara, Te-Li Lau, Sze-Shun Wang and Quang H. Trang. Accompanying the petition was a statement from added inventor Miyayama stating that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention; and a declaration executed by actual inventors Senter and Miyayama.

37 CFR 1.48(c) requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (4) and (5) above. The petition specifically requests the addition of the above-identified inventors. Petitioner has paid the processing fee. The petition includes a statement signed by a person who states that they are empowered to act on behalf of the assignee and that they consent to the change in inventorship. Accompanying the assignee statement is a certificate under 37 C.F.R. § 3.73(b).

Petitioner requests waiver of the requirement for statements from the other added inventors on the basis that they are all unavailable. Likewise, petitioner requests waiver of the requirement that all of the inventors sign the declaration on the basis that petitioner has been unable to find or reach each of these inventors after a diligent effort. In support thereof, petitioner has provided a statement of facts by attorney Thomas Fiala and documentary evidence of the inventors' unavailability.

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of both requirements is appropriate in this instance. The facts of the record do not present uncertainty as to this correction of inventorship. The assignee has given consent to the requested correction. The petition shows that the statement was presented to the inventors and by their conduct they refused to sign it. Petitioner has shown that each of the nonsigning inventors was actually given the opportunity to reexecute the oath or declaration, or could not be reached, after diligent effort. See MPEP 201.03.

Accordingly, both petitions under § 1.183 are **GRANTED**.

In view thereof, the petition under § 1.48(c) is **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Tartera Donnelly for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
David Jacobs	:	DECISION ON PETITION
Application No. 11/113,144	:	UNDER 37 CFR 1.137(b)
Filed: April 25, 2005	:	
Attorney Docket No. P-6699-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2006, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice to File Corrected Application Papers mailed on May 19, 2005, which set a two-month period to submit replacement drawings. Accordingly, this application became abandoned on July 20, 2006. A Notice of Abandonment was mailed on February 1, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of replacement drawings, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

This matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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HOUSTON, TX 77002-2716

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OFFICE OF PETITIONS

In re Application of :
Yash P. Sharma :
Application No. 11/131,155 : DECISION GRANTING PETITION
Filed: April 25, 2005 :
Attorney Docket No. 95176571-007001 :

This is a decision on the petition filed July 21, 2005, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed May 27, 2005.

On April 25, 2005, the application was deposited.

On May 27, 2005, the Office of Initial Patent Examination mailed the Notice stating that no filing date had been accorded the application because drawings were not found with the original disclosure, but appeared to be required to understand the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on June 24, 2005. Petitioner appears to concede that the drawings did not accompany the original disclosure filed April 25, 2005, but maintains argues that the drawings are not necessary for the understanding of the invention claimed.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. 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). A review of the record reveals that Claim 1 is a method claim. Therefore, the application is deemed to be an application that does not require drawings for an understanding of the invention claimed. Accordingly, the application, as filed, was entitled to the filing date of April 25, 2005.

The copy of the drawing filed with the instant petition is noted, but will not be made a part of the record. A preliminary amendment requesting entry of the drawing should be filed prior to the first action on the merit.

The declaration filed July 21, 2005, is noted.

The application is being forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with a filing date of April 25, 2005.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Copied from 11131155 on 08/19/2005

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BAKER & MCKENZIE LLP
711 LOUISIANA
SUITE 3400
HOUSTON, TX 77002-2716

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Yash P. Sharma :
Application No. 11/113,155 :
Filed: April 25, 2005 :
Attorney Docket No. 95176571-007001 :

DECISION GRANTING PETITION

This is a decision on the petition filed July 21, 2005, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed May 27, 2005.

On April 25, 2005, the application was deposited.

On May 27, 2005, the Office of Initial Patent Examination mailed the Notice stating that no filing date had been accorded the application because drawings were not found with the original disclosure, but appeared to be required to understand the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on June 24, 2005. Petitioner appears to concede that the drawings did not accompany the original disclosure filed April 25, 2005, but maintains argues that the drawings are not necessary for the understanding of the invention claimed.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. 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). A review of the record reveals that Claim 1 is a method claim. Therefore, the application is deemed to be an application that does not require drawings for an understanding of the invention claimed. Accordingly, the application, as filed, was entitled to the filing date of April 25, 2005.

The copy of the drawing filed with the instant petition is noted, but will not be made a part of the record. A preliminary amendment requesting entry of the drawing should be filed prior to the first action on the merit.

The declaration filed July 21, 2005, is noted.

The application is being forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with a filing date of April 25, 2005.

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

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United States Patent and Trademark Office
P.O. Box 1450
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BAKER & MCKENZIE LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
HOUSTON TX 77002-2716

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SEP 2 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Shama	:	
Application No. 11/113,155	:	DECISION ON PETITION
Filed: April 25, 2006	:	TO WITHDRAW
Attorney Docket No. 95176571-007001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Dr. Yash Shama
43393 Cedar Pond Place
Chantilly, VA 20152

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60 STATE STREET
BOSTON MA 02109

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of
TOWNSEND, Seth et al.
Application No. 11/113,212
Filed: April 22, 2005
Attorney Docket No. **0291288.122US1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 12, 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 Wayne M. Kennard on behalf of all attorneys of record who are associated with customer No. 23483. All attorneys/agents associated with the Customer Number 23483 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
Paralegal Specialist
Office of Petitions

cc: **SETH TOWNSEND**
12 GRIFFIN STREET
SKANEATELES NY 13152

cc: **SHAWN E. STOVALL**
13861 RACEWAY DRIVE, APT. 219
ROANOKE TX 76262

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JUN - 6 2005

MALLINCKRODT & MALLINCKRODT
10 EXCHANGE PLACE, SUITE 510
SALT LAKE CITY, UT 84111

In re application of Ajit Singh Gill Application No. 11/113,256 Filed: April 22, 2005 For: PIPE COUPLING	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on April 22, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED** .

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Gill 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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 05/27/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENNETH E. LEEDS
P.O. BOX 2819
SUNNYVALE CA 94087-0819

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Treves et al.	:	
Application No. 11/113,258	:	ON PETITION
Filed: April 23, 2005	:	
Attorney Docket No. K2004011	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a Declaration from the applicant, David Treves. 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 2877 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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KENNETH E. LEEDS
P.O. BOX 2819
SUNNYVALE, CA 94087-0819

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JUN 0 7 2006
OFFICE OF PETITIONS

In re Application of
David Treves et al
Application No. 11/113,260
Filed: April 23, 2005
Attorney Docket No. K2004017

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 May 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition includes a declaration by David Treves attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2877 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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KENNETH E. LEEDS
P.O. BOX 2819
SUNNYVALE CA 94087-0819

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Treves et al.	:	
Application No. 11/113,261	:	ON PETITION
Filed: April 23, 2005	:	
Attorney Docket No. K2004012	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, David Treves. 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 2877 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/03/07

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/113281** Patent No.: **7147480**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: changes are a editorial in nature, not affecting scope of the claims.

TCP=RL 2839

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,147,480

DATED : December 12, 2006

INVENTOR(S) : Aiichiro IKEDA

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 6, line 3 (claim 2, line 1) "The connecting structure" should read – The process –.

Column 6, line 7 (claim 3, line 1) (claim 9, line 2) "The connecting structure" should read – The process –.

Column 6, line 25 (claim 4, line 16) "tan" should read – than –.

Column 6, line 38 (claim 5, line 6) "Inserted inserted" should read – inserted –.

Mailing address of sender:

George A. Loud
Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria, Va. 22314
TEL (703) 683-0500
FAX (703) 683-1080

Patent No. 7,147,480

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APR 1 2 2007.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re Application of :
UCHIDA, YOSHINORI, et al. :
Application No. 11/113,301 :
Filed: April 25, 2005 :
For: **MOBILE COMMUNICATION SYSTEM** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed April 25, 2005 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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SIEMENS SCHWEIZ AG
I-47, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH CH-80-47
SWITZERLAND

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OFFICE OF PETITIONS

In re Application of	:	
Berlin, et al.	:	
Application No. 11/113,315	:	ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 2005P05873US	:	
For: METHOD AND ARRANGEMENT OFR RECOGNIZING OBJECTS IN MAIL ITEM IMAGES, THEIR POSITION AND READING THEIR POSTAL INFORMATION		

This is a decision on the petition under 37 CFR 1.181, filed May 18, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed June 23, 2005, which set forth an extendable two (2) month period for reply. The Office contended that this application became abandoned on August 24, 2005 for failure to reply. A Notice of Abandonment was mailed on March 15, 2006.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a reply to the June 23, 2005 Notice was timely and successfully transmitted via facsimile to the Office on August 18, 2005. The undersigned finds this argument completely convincing, as petitioners' reply is present in the application file.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the March 15, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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AUG 19 2008

In re Application of	:	
YADAV, Tapesh	:	
Application No. 11/113,320	:	DECISION ON PETITION
Filed: January 09, 2001	:	TO WITHDRAW
Attorney Docket No. **037768-0124**	:	FROM RECORD
	:	

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 05, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on June 25, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PPG INDUSTRIES INC**
INTELLECTUAL PROPERTY DEPT
ONE PPG PLACE
PITTSBURGH PA 15272

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

MAILED
31 MAY 2006

In re Application of	:	
KODAMA, NOBUTAKA, et al.	:	
Application No. 11/113,322	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO MAKE SPECIAL
For: **TRANSCEIVER AND COMMUNICATION METHOD FOR DIGITAL MULTI CARRIER COMMUNICATION**	:	

This is a decision on the petition filed April 28, 2006 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
Ryozo Kayama et al	:	
Application No. 11/113,325	:	ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 2635-292	:	

This is a decision on the petition, filed October 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 June 14, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3747 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-28-08

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 11113327 Patent No.: 7393565

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

1792
Art Unit

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCCLEAN, VA 22102

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Klaus Dieter UFERT, et al	:	
Application No. 11/113,332	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. 543822014000	:	FROM RECORD
	:	

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 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 16, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: KLAUS DIETER UFERT
FURTWEG 53
UNTERSCHLEISSHEIM, GERMANY

cc: DICKE, BILLIG & CZAJA, PLLC
FIFTH STREET TOWERS, SUITE 2200
100 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/113,332	04/25/2005	Klaus Dieter Ufert	543822014000

CONFIRMATION NO. 7053

OC000000023715389

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 05/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/02/2007.

- 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.

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 04/28/2010

Applicant	: Nicholas A.J. Millington	: DECISION ON REQUEST FOR
Patent Number	: 7668964	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/113,363	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1033** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PAUL V. KELLER
4585 LIBERTY RD.
SOUTH EUCLID, OH 44121

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NOV 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Bertram Murray Greenberg	:	DECISION ON PETITION
Application No. 11/113,382	:	TO MAKE SPECIAL UNDER
Filed: April 23, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. BG001	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 23, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of a birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3673 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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ST. LOUIS MO 63105

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FEB 2 0 2008

OFFICE OF PETITIONS

In re Application of
James W. Bigott
Application No. 11/113,406
Filed: April 22, 2005
Attorney Docket No. 5246-12/US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed August 14, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications 10/674,913 and 09/784,750.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that

this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 1792 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/113,406	04/22/2005	1792	825	5246-12/US	20	3

CONFIRMATION NO. 7398

CORRECTED FILING RECEIPT

28997
HARNESS, DICKEY, & PIERCE, P.L.C
7700 BONHOMME, STE 400
ST. LOUIS, MO 63105

OC000000028049565

Date Mailed: 01/31/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

James W. Bigott, Fenton, MO;

Power of Attorney: The patent practitioners associated with Customer Number 28997

Domestic Priority data as claimed by applicant

This application is a CIP of 10/674,913 09/30/2003 PAT 7,021,321
which is a DIV of 09/784,750 02/15/2001 PAT 6,659,114

Foreign Applications

If Required, Foreign Filing License Granted: 06/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/113,406**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
** SMALL ENTITY **

Title

Kitchenware washers and methods of manufacturing the same

Preliminary Class

134

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

In re Application of	:
James W. Bigott	:
Application No. 11/113,406	: DECISION ON PETITION
Filed: April 22, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5246-12/US	:

This is a decision on the petition filed August 14, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications 10/674,913 and 09/784,750.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that

this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 1792 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Ulrich J. Pfeiffer	: DECISION ON REQUEST FOR
Patent Number	: 7666146	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,407	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1293** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/22/2010

Applicant	: Wu Yang	: DECISION ON REQUEST FOR
Patent Number	: 7660313	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,411	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **765** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 05/18/2010

Applicant : Wu Yang
Patent Number : 7660313
Issue Date : 02/09/2010
Application No : 11/113,411
Filed : 04/22/2005

: 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 **850** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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OCT 1 2 2007

OFFICE OF PETITIONS

In re Application of :
Kenneth ESKILDSEN et al. :
Application No. 11/113,420 : DECISION ON PETITION
Filed: April 22, 2005 :
Attorney Docket No. H0007083 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 11, 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) was obtained. Accordingly, the application became abandoned on March 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee $1,500.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 11, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 2884 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **ANTHONY R. BARKUME**
20 GATEWAY LANE
MANORVILLE, NY 11949

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NORA T. HARRISON, ED. D.
532B KAWAIHAE ST.
HONOLULU, HI 96825

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Nora T. Harrison	:	DECISION ON PETITION
Application No. 11/113,421	:	TO MAKE SPECIAL UNDER
Filed: April 25, 2005	:	37 CFR 1.102(c)(1)
For: Harrison Improved Female Self-Catheter	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 12, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of an identification card bearing her date of birth and a statement by Nora T. Harrison attesting that she is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3763 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
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SEP 21 2005

MANUEL BRAD MOSES
211 Beach 136th Street
Belle Harbor, NY 11694

In re application of Manuel Brad Moses Application No. 11/113,425 Filed: April 25, 2005 For: CONSUMER DATA CREDIT OR DEBIT CARD	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 09, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (D) and (E) above. Regarding item (D), applicants have discussed numerous references, including U.S. Patents, U.S. Patent Publications, and a number of articles and publications. However, after completing a review of the application file no copies of the above-noted references have been located. Regarding item (E), the petition does not include a detailed discussion of how the claimed subject matter is patentable over <u>each</u> of the references located in applicant's search, and cited in the Information Disclosure Statement filed June 16, 2004.

For the above stated reasons, the petition is **<u>DISMISSED</u>**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/pav: 09/15/05

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FROM DIRECTOR'S OFFICE

JUL 2 7 2006

TECHNOLOGY CENTER 3600

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Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

STEVEN HOROWITZ
COUNSELOR AT LAW
295 MADISON AVENUE,
SUITE 700,
NEW YORK, NY 10017

In re application of	:	**DECISION ON PETITION**
Manuel Brad Moses	:	**TO MAKE SPECIAL**
Application No. 11/113,425	:	**(ACCELERATED**
Filed: April 25, 2005	:	**EXAMINATION)**
For: CONSUMER DATA CREDIT OR DEBIT CARD		

This is in response to the renewed petition filed on January 26, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 7/18/06

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DIW Oct-05

CHRISTIE PARKER & HALE, LLP
350 W. COLORADO BLVD, SUITE 500
POST OFFICE BOX 7068
PASADENA CA 91109-7068

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Dong-Yong Shin	:	
Application No. 11/113,444	:	DECISION GRANTING PETITION
Filed: 22 April, 2005	:	
Atty Dckt No. 54267/DBP/Y35	:	

This is a decision on the petition filed on 21 July, 2005, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 22 April, 2005, rather than the currently-accorded filing date of 25 April, 2005.

Petitioner alleges that the application was deposited in Express Mail service on 22 April, 2005. In support, on 21 July, 2005, petitioners supplied a copy of a USPS Pickup Service Statement Listing Express Mail Customer Label No. EV327919784US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the pickup date on the copy of the Pickup Service Statement provided is illegible, petitioner has also provided a copy of the USPS Track & Confirm Internet search report shows that the Express Mail shipment bearing the above-identified Express Mail number was "Enroute" on 22 April, 2005.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 22 April, 2005.

In view of the above, the application is entitled to a filing date of 22 April, 2005.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to 22 April, 2005, and mailing 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

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 11/113,445	:	DECISION GRANTING PETITION
Filed: 22 April, 2005	:	
Atty Dckt No. 54606/SAH/B600	:	

This is a decision on the petition filed on 18 July, 2005, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 22 April, 2005, rather than the currently-accorded filing date of 25 April, 2005.

Petitioners allege that the application was deposited in Express Mail service on 22 April, 2005. In support, on 21 July, 2005, petitioners supplied a copy of a USPS Pickup Service Statement Listing Express Mail Customer Label No. EV327881925US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The pickup date on the copy of the Pickup Service Statement provided is "4-22-05". Additionally, petitioners have also provided a copy of the USPS Track & Confirm Internet search report shows that the Express Mail shipment bearing the above-identified Express Mail number was "Enroute" on 22 April, 2005.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 22 April, 2005.

In view of the above, the application is entitled to a filing date of 22 April, 2005.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to 22 April, 2005, and mailing 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

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TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of

James Kane

Application No. 11/134,464

Filed: April 25, 2005

Attorney Docket No. PTI-001-USA-P

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 26, 2007.

The petition is **granted**.

This application was held abandoned June 7, 2007, after no reply was received to the non-final Office action mailed March 6, 2007. The notice set forth a shortened 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 June 7, 2007. A Notice of Abandonment was mailed November 1, 2007. The instant petition was filed on December 26, 2007. Petitioner maintains that the non-final Office action was never received.

A review of the application file history reveals that the non-final Office action was returned to the USPTO in March 20, 2007, and that the envelope containing the final Office action had no mailing address. The evidence is convincing that petitioner did not receive the non-final Office action. The petition is granted. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2800, GAU 2884 for further processing that may include remailing the non-final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Yakes et al.	:	LETTER REGARDING PATENT
Application No. 11/113,470	:	TERM ADJUSTMENT
Filed: April 25, 2005	:	
Atty Docket No. 061300-0813	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed June 13, 2007. Applicants requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On March 14, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is six days. On June 13, 2007, applicants submitted the instant comment. Applicants did not state any basis for the request for review of the patent term adjustment.

A review of the application history confirms that the period of adjustment of six days for Office delay and period of reduction of zero days for applicant delay are correct.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains six days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being referred to the Office of Patent Publications for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HERCULES INCORPORATED
HERCULES PLAZA
1313 N. MARKET STREET
WILMINGTON DE 19894-0001

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of :
Thomas J. Podlas :
Application No. 11/113,476 : ON PETITION
Filed: April 25, 2005 :
Attorney Docket No. 10369E :

This is a decision on the petition filed February 14, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned December 26, 2005 for failure to timely pay the issue fee on or before December 23, 2005. Accordingly, a Notice of Abandonment was mailed February 6, 2006.

The issue fee, petition fee and publication fee have been charged to deposit account no. 08-1800. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET
13TH FLOOR
STAMFORD, CT 06901

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Rakesh Vig	:	
Application No. 11/113,516	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. VTI-114.6(B)(CIP)(C)	:	FROM RECORD
	:	

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 23, 2009 and resubmitted February 4, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Hans-Peter G. Hoffmann on behalf of all attorneys of record who are associated with customer No. 47670. All attorneys/agents associated with the Customer Number 47670 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding reply from the applicant due to the filing of the Notice of Appeal filed October 28, 2008.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: VERIFICATION TECHNOLOGIES, INC.
25 MIDDLESEX TURNPIKE, UNIT 14
P.O. BOX 94
ESSEX, CT 06426

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CHANG-FENG WAN
16210 SHADYBANK DRIVE
DALLAS, TX 75248

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OFFICE OF PETITIONS

In re Application of	:	
Chang-Feng Wan	:	
Application No. 11/113,545	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. JSF02-0013	:	

This is a decision on the petition, filed September 17, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before August 13, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed May 13, 2009.

Petitioner asserts that the Notice dated May 13, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2892 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of May 13, 2009. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Irvin Dingle
Petitions Examiner
Office of Petitions

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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

MAR 26 2007

In re Application of: Coleman et al. Serial No.: 11/113,549 Filed: April 25, 2005 Title: SURGICAL STAPLER	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on December 27, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application.

As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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77 WEST WACKER DRIVE
SUITE 2500
CHICAGO, IL 60601-1732

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of
Janik, Kalayjian, Edwards, and Ferguson
Application No.: 11/113,571
Filed: April 25, 2005
Attorney Docket No: 81230.515US5
For: **WEBPAD ADAPATED TO COMMUNICATE USING WIDE ARE AND LOCAL AREA COMMUNICATION CHANNELS**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed July 19, 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 25, 2005, without a properly executed declaration. On May 26,2 005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration and payment of a surcharge. The instant petition was filed responsively on July 19, 2005.

Petitioner has shown that inventor Ferguson has constructively refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Joshua Ferguson
882 Cedar Street
Alameda, CA 94501

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of
Janik, Kalayjian, Edwards, and Ferguson
Application No.: 11/113,571
Filed: April 25, 2005
Attorney Docket No: 81230.515US5
For: **WEBPAD ADAPATED TO COMMUNICATE USING WIDE ARE AND LOCAL AREA COMMUNICATION CHANNELS**

: DECISION ACCORDING
: RULE 47(a) STATUS

Dear Mr. Ferguson:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 2500
CHICAGO, IL 60601-1732

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 01, 2008

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/113589 Patent No.: 7291521 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Faxed July 3, 2008

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:

the first correction - col. 6, line 47, claim 1 is ok
the second correction should be col. 8, line 3, claim 10.

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — **Art Unit** 2891

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Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

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OFFICE OF PETITIONS

In re Application of	:	
Drummond, et al.	:	
Application No. 11/113,592	:	DECISION DISMISSING PETITIONS
Filed: April 25, 2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2300-1467.10	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed February 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment. In addition, the petition will be treated under 37 CFR § 1.78(a)(6), to accept an unintentionally delayed claim under 37 U.S.C. § 119(e) for the benefit of priority to provisional application no. 60/076,964.[1]

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The ~~Commissioner~~ Director may require

[1] A petition under 37 CFR 1.78(a)(6) is required because when the benefit claim for application No. 60/076,964 was presented, applicants had not claimed benefit of an intermediate application filed within one year of the filing date of the provisional application. Therefore the benefit claim to the provisional application was rejected.

> additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

With respect to application no. 10/123,092: The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of application no. 10/123,092 in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

Petitions are required to claim benefit of application nos. 09/263,117 and 60/076,964. In addition, as stated above, proper relationships between nonprovisional applications must be included in the amendment. The amendment must be incompliance with 37 CFR 1.121. It is noted that the amendment found in the middle of the petition is informal.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

---

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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 Petitions Attorney E. Shirene Willis at (571) 272- 3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

COPY MAILED
JUL 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Drummond, et al.	:	
Application No. 11/113,592	:	DECISION DISMISSING PETITIONS
Filed: April 25, 2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2300-1467.10	:	

This is a decision on the reconsideration petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(3), filed June 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application no. 09/263,117 and provisional application no. 60/076,964.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

As stated in the previous decision on petition, "The amendment must be incompliance with 37 CFR §1.121. It is noted that the amendment found in the middle of the petition is informal."

Petitioners still have not submitted an amendment in compliance with 37 CFR § 1.121. The amendment found in the middle of the reconsideration petition is informal. The amendment must be presented on a separate sheet of paper. 37 CFR § 1.121(h).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR §1.76(b)(5) or 37 CFR 1.121) are required.

Regarding finances, the Office charged the petition fee twice. Only one petition fee is required. The second petition fee, charged on June 12, 2006, will be credited to deposit account no. 18-0580.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop 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 Petitions Attorney Shirene Willis Brantley at (571) 272- 3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

CC: CAROL A. SCHNEIDER
MINTZ LEVIN
1400 PAGE MILL ROAD
PALO ALTO, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Drummond, et al.	:	
Application No. 11/113,592	:	DECISION GRANTING PETITIONS
Filed: April 25, 2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2300-1467.10	:	

This is a decision on the reconsideration petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(3), filed July 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application no. 09/263,117 and provisional application no. 60/076,964.

The petition is **GRANTED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Application No 09/263,117, filed March 5, 1999, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/076,964, which was filed on March 5, 1998, for which priority is claimed.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1654 for appropriate action on the amendment submitted July 28, 2006, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Shirene Willis Brantley

Shirene Willis 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
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/113,592	04/25/2005	1654	1000	1467.0110	5	2	1

CONFIRMATION NO. 8832

CORRECTED FILING RECEIPT

OC000000020468867

27476
Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097

Date Mailed: 09/18/2006

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)

Robert J. Drummond, Richmond, CA;
Steve Rosenberg, Oakland, CA;

Power of Attorney:

Charlene Launer--33035
Alisa Harbin--33895
Marcella Lillis--36583
Tracy Payne--36889
Richard Ekstrom--37027
Young Suh--41337
Lisa Alexander--41576
Michael Moran--42013
Steven Collier--42429
Rebecca Hale--45680

Domestic Priority data as claimed by applicant

This application is a DIV of 10/123,092 04/11/2002 PAT 7,022,673
which is a CON of 09/263,117 03/05/1999 PAT 6,423,685
which claims benefit of 60/076,964 03/05/1998

Foreign Applications

If Required, Foreign Filing License Granted: 05/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/113,592

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for increasing the serum half-life of a biologically active molecule

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 2, 2009

TO SPE OF : ART UNIT 3746
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/113593/7491035

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — 3746 Art Unit

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 05/03/2010

Applicant	: Leonid Kazakevich	: DECISION ON REQUEST FOR
Patent Number	: 7664201	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/113,603	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Roger Pitt
Kirkpatrick & Lockhart Nicholson Graham LLP
599 Lexington Avenue
33rd Floor
New York, NY 10022-6030

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Milton Hollander	:	
Application No. 11/113,622	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. HOLLANDER2CON	:	FROM RECORD
	:	

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 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 another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **copy of a written instructions from assignee**, do not meet any of the conditions set forth in 37 CFR 10.40 because the assignee has not intervened in accordance with 37 CFR 3.71.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Anthony H. Handal, Esq.
Brown Rudnick Berlack Israels LLP
Seven Times Square
New York, NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMPSON HINE L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 8801
DAYTON OH 45401-8801

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Milton B. Hollander	:	
Application Number: 11/113622	:	
Filing Date: 04/25/2005	:	ON PETITION
Attorney Docket Number:	:	
HOLLANDER2CON	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 27, 2008, for failure to timely submit a reply to the Office action requiring restriction and/or election mailed on February 26, 2008, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandoment was mailed on December 16, 2008.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The present petition is accompanied by an election of claims.

Receipt of the revocation and power of attorney filed on March 8, 2009, is acknowledged. All correspondence will be mailed to the new address of record.

The application is referred to Technology Center Art Unit 1794 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/20/2010

Applicant	: Dana Blair	: DECISION ON REQUEST FOR
Patent Number	: 7619982	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/113,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **958** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE NM 87102

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of
McDermott, Elizabeth Ann
Application No. 11/113,634
Filed: April 22, 2005
Attorney Docket No. 31821-1001-UT

ON 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 22, 2005, rather than the presently accorded date of April 25, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 22, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 669084426 US showing a handwritten "date-in" of "April 22, 2005." The same Express Mail receipt number appears on the original "Patent Application Transmittal." The Express Mail label number also appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated April 22, 2005, on the transmittal paper. Additionally, applicant has submitted a copy of a postal service sales receipt, which shows Express Mail label No. EV 669084426 US, as having a receipt date of April 22, 2005.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on April 22, 2005 at 4:18 p.m. at the Albuquerque, NM USPS.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on April 22, 2005.

The petition is **GRANTED**.

This matter is being referred to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

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SUITE 1340
ALBUQUERQUE NM 87102

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
McDermott, Elizabeth Ann	:	
Application No. 11/113,634	:	ON PETITION
Filed: April 22, 2005	:	
Attorney Docket No. 318121-1001-UT	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed October 14, 2005, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from BETTY ANN MCDERMOTT to ELIZABETH ANN MCDERMOTT.

Petitioner stated that an Application Data Sheet (ADS) was included with the instant petition. However, after a review of the application documents, it does not appear that an ADS was included.

This matter is being referred to Technology Center 2800 for examination in due course.

Telephone inquiries regarding this decision should be directed to Paralegal Liana Chase at (571) 272-3282.

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Heide L. Ford et al	:	
Application No. 11/113,644	:	DECISION GRANTING PETITION
Filed: April 25, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. UTC-09779	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of April 21, 2006, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $285 extension of time submitted with the petition on March 6, 2007 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1642.

Karen Creasy
Petitions Examiner
Office of Petitions

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555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

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JUL 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Timothy P. Goggins	:	
Application No. 11/113,662	:	DECISION GRANTING PETITION
Filed: April 25, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NG-32232-B	:	

This is a decision on the petition, filed July 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2854 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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JUL 16 2009

OFFICE OF PETITIONS

PYLE & PIONTEK, LLC
221 N LASALLE STREET , ROOM 1207
CHICAGO IL 60601

In re Application of	:	
Alexander Wagner, et al.	:	
Application No. 11/113,687	:	ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 8034-94199	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 30, 2008, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; 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 Technology Center AU 3654 for appropriate action on the concurrently filed amendment.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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SEP 26 2007

OFFICE OF PETITIONS

White-Welker & Welker, LLC
P.O. Box 199
Clear Spring, MD 21722-0199

In re Application of :

Khaled Malhas :
Application No. 11/113,692 : DECISION ON PETITION
Filed: April 25, 2005 : TO WITHDRAW
Attorney Docket No. 2004-1035 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Matthew T. Welker on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Khaled Malhas at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed February 28, 2007.

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: **Khaled Malhas**
Drivaware, Inc.
1756 Plymouth Road
Suite 500
Ann Arbor, MI 48105

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/113,692	04/25/2005	Khaled Malhas	2004-1035

CONFIRMATION NO. 8406

OC000000026004661

37476
WHITE-WELKER & WELKER, LLC
P.O. BOX 199
CLEAR SPRING, MD 21722-0199

Date Mailed: 09/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Jeri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

Mail Date: 04/21/2010

Applicant	: Sebastiano Failla	: DECISION ON REQUEST FOR
Patent Number	: 7658974	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,713	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1119** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P. O. BOX 9133
CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of Daniel Alvarez, Jr. Et al Application No. 11/113,726 Filed: April 25, 2005 Attorney Docket No. 3194.1026-007	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 12, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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CATHY A. KODROFF
ONE SPRING HOUSE CORPORATE CENTER
BOX 457
SPRING HOUSE PA 19477

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:
Wilk, Rubezhov, Hadfield and Holm	: DECISION ACCORDING STATUS
Application No. 11/113,730	: UNDER 37 CFR 1.47(a)
Filed: April 25, 2005	:
For: PURIFICATION OF PROGESTERONE	:
RECEPTOR MODULATORS	:

This is in response to the petition under 37 CFR 1.47(a), filed July 19, 2005.

The petition is granted.

Petitioner showed that Anthony Hadfield, the non-signing inventor, refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Cathy A. Kodroff, Attorney of record, established that she mailed the application papers, including the specification, claims and drawings, to the non-signing inventor; however, he refused the request to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center Art Unit 1624.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dr. Anthony Hadfield
1799 Blair Castle Circle
Ruskin FL 33570

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OFFICE OF PETITIONS

LETTER

In re Application of :
Wilk, Rubezhov, Hadfield and Holm :
Application No. 11/113,730 :
Filed: April 25, 2005 :
For: PURIFICATION OF PROGESTERONE :
RECEPTOR MODULATORS :

Dear Dr. Hadfield:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

HOWSON AND HOWSON
CATHY A. KODROFF
ONE SPRING HOUSE CORPORATE CENTER
BOX 457
SPRING HOUSE PA 19477

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OFFICE OF PETITIONS

In re Application of	:	
Wilk et al.	:	
Application No. 11/113730	:	ON APPLICATION FOR
Filed: April 25, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
AM-101478	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR §1.705(b), filed December 30, 2008. Applicant requests that the determination of patent term adjustment be corrected from three hundred fifty-four (354) days to five hundred forty-three (543) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

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 Attorney Derek Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SUITE 210
FORT WASHINGTON PA 19034

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OCT 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Wilk et al.	:	ON APPLICATION FOR
Patent Number: 7,514,466	:	PATENT TERM ADJUSTMENT
Issue Date: 04/07/2009	:	INCLUDING RENEWED
Application No. 11/113730	:	REQUEST FOR
Filing or 371(c) Date: 04/25/2005	:	RECONSIDERATION OF
Attorney Docket Number: AM-101478	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b), filed June 5, 2009, and on the Request for Deferral of Reconsideration of Patent Term Adjustment Under 37 CFR 1.705(b), filed August 21, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 701 days, not 354 days as indicated on the patent. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent. The Application for Patent Term Adjustment Including Renewed Request for Reconsideration of Patent Term Adjustment Under 37 CFR 1.705(b) is properly treated under 37 CFR 1.705(d).

The application for patent term adjustment including renewed request for reconsideration patent term adjustment is **DISMISSED**.

Patentees also request that a decision on this request for reconsideration of patent term adjustment be held in abeyance pending a final, non-appealable, decision on the merits 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. Accordingly, the request to defer a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

On April 7, 2009, the above-identified application matured into U.S. Patent No. 7,514,466 with a patent term adjustment of 354 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment according to the ruling in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that this Office failed to take into account all of the patent term adjustment (PTA) days that Patentees are entitled to pursuant to 35 USC 154(b)(1)(B) when calculating the PTA. Patentees state that, pursuant to Wyeth, since no "A Delay" falls on the same calendar day as any "B Delay" day for this application, i.e. they

do not overlap, Patentees are entitled to "A Delay" + "B Delay" – Applicant Delay = 382 days + 347 days – 28 days = 701 days of PTA.

The 347-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 25, 2005, and issuing on April 7, 2009, three (3) years and 347 days later. Patentees assert that in addition to this 347-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 382 days. This 382-day period is the result of a period of delay of 382 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on April 7, 2009, the application was pending three years and 347 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 382 days is correct. At issue is whether patentees should accrue 347 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 382 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the 347 days of delay in issuance of the patent overlap with the 382 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be

extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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 25, 2005, to the date the patent issued on April 7, 2009. Prior to the issuance of the patent, 382 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 347 days for Office delay in issuing the patent overlap with the 382 days of Office delay. During that time, the issuance of the patent was delayed by 382 days, not 382 days + 347 days. The Office took 14 months and 382 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 382 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 347 days after its filing date. The Office did not delay 382 days and then delay an additional 347 days. Accordingly, 382 days of patent term adjustment was properly entered because the period of delay of 347 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 382 days attributable to grounds specified in § 1.702(a).

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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).

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OFFICE OF PETITIONS

RICHARD AUCHTERLONIE
NOVAK DRUCE & QUIGG LLP
1000 LOUISIANA
53RD FLOOR
HOUSTON TX 77002

In re Application of	:	
Weiss, et al.	:	
Application No. 11/113,749	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 11156.002.CNUS1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 4, 2009.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed July 25, 2008. This Office action set a statutory period for reply of six (6) months - no shortened statutory period was set. Accordingly, the last day applicants could have timely filed a response would have been January 25, 2009. The Office mailed a Notice of Abandonment on February 4, 2009.

A review of the application file reveals the presence of an Amendment, filed on January 26, 2009. The Amendment was timely because January 25, 2009 fell on a Sunday. See 37 CFR 1.7(a). Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The application is being forwarded to Group Art Unit 3685 for consideration of the Amendment, timely filed on January 26, 2009.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Mail Date: 05/21/2010

Applicant	: Imad Libbus	: DECISION ON REQUEST FOR
Patent Number	: 7640057	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/113,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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In re Patent No. 7,446,211	:	
Wilk, et al.	:	DECISION DISMISSING
Application No. 11/113,794	:	REQUEST FOR
Issue Date: November 4, 2008	:	RECONSIDERATION OF
Filed: April 25, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
AM-101481	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d), filed December 31, 2008. Patentees request that the determination of patent term adjustment be corrected from six hundred forty-six (646) days to eight hundred thirty-nine (839) 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 646 days.

It is noted that in a communication filed August 21, 2009, patentees requested that the Office defer or delay a decision on this request for reconsideration until a final decision has been rendered in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120. However, the Office notes that there is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

On November 4, 2008, the application matured into U.S. Patent No. 7,446,211, with a revised patent term adjustment of 646 days. The Office determined that the 193 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 646 days of Office delay pursuant to 35 U.S.C. §

154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, 0 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 0 days, the patent issued with a revised patent term adjustment of 646 (646 - 0) days.

On December 31, 2008, patentees timely submitted this request for reconsideration of patent term adjustment, asserting that the correct number of days of Patent Term Adjustment is 839 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 839 (646 + 193) days as these periods do not occur on the same day. Further, given the applicant delay of 0 days, patentees assert entitlement to 839 (839 - 0) days of patent term adjustment.

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the

> application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the

application filing date under 35 U.S.C. 111(a), April 25, 2005, and ending on the date of issuance of the patent, November 4, 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), 646 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 193 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 193 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 646 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 646 days and the 193 days is neither permitted nor warranted. 646 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 additional days of adjustment pursuant to § 1.702(b) for a total of the greater period of 646 days for Office delay.

In view thereof, no change will be made in the patent term adjustment of 646 days (646 days of Office delay - 0 days of applicant delay).

The petition fee of $200.00 as set forth in 37 CFR 1.18(e) was received. 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

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Mail Date: 04/20/2010

Applicant	: Bogdan Kazimierz Wilk	: DECISION ON REQUEST FOR
Patent Number	: 7446211	: RECALCULATION of PATENT
Issue Date	: 11/04/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,794	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **839** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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In re Patent No. 7,582,755	:	
Wilk	:	DECISION DISMISSING
Application No. 11/113,795	:	REQUEST FOR
Issue Date: September 1, 2009	:	RECONSIDERATION OF
Filed: April 25, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. AM-101470	:	UNDER 37 CFR 1.705

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FO RECONSIDERATION UNDER 37 C.F.R. §1.705(d), filed September 4, 2009. Patentee requests that the determination of patent term adjustment be corrected from seven hundred and two (702) days to one thousand one hundred forty-two (1,142) days.

In the September 4, 2009 filing, patentee requests that the decision on the September 4, 2009 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. Accordingly, the request for deferral/delay of decision under 37 CFR §1.705(d) is **DISMISSED**.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 702 days.

On September 1, 2009, the application matured into U.S. Patent No. 7,582,755, with a revised patent term adjustment of 702 days. The Office determined that the 494 days of Office delay

pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 702 days of Office delay pursuant to 35 U.S.C. § 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, 0 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the Office delay of 702 days, the patent issued with a revised patent term adjustment of 702 (702 - 0) days.

On September 4, 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 1,142 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 1,142 (702 + 494 - 54 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 0 days, patentee asserts entitlement to 1,142 (1,142 - 0) days of patent term adjustment.

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) 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).

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 25, 2005, and ending on the date of issuance of the patent, September 1, 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), 702 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 494 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 494 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 702 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 702 days and the 494 days is neither permitted nor warranted. 702 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 additional days of adjustment pursuant to § 1.702(b) for a total of the greater period of 702 days for Office delay.

In view thereof, no change will be made in the patent term adjustment of 702 days (702 days of Office delay - 0 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 Senior Petitions Attorney Shirene Willis Brantley, at (571) 272-3230.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HOWSON & HOWSON LLP / WYETH LLC
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Bogdan Kazimierz Wilk	: DECISION ON REQUEST FOR
Patent Number	: 7582755	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1142** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Steven P. Kim	: DECISION ON REQUEST FOR
Patent Number	: 7624358	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **687** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 600
HOUSTON TX 77070

MAILED
JUL 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,623,130	: DECISION ON REQUEST
John F. Burkey	: FOR
Issue Date: November 24, 2009	: RECONSIDERATION OF
Application No. 11/113,815	: PATENT TERM ADJUSTMENT
Filed: April 25, 2005	: and
Atty Docket No. **119-0082US / P3915US1**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-seven (947) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-seven 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 Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred forty-seven (947) days.**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,623,130 B2

DATED : Nov. 24, 2009

INVENTOR(S) : Burkey

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 (578) days

Delete the phrase "by 578 days" and insert – by 947 days--

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OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE, MA 02138

Mail Date: 07/08/2010

Applicant	: Hung Li	: DECISION ON REQUEST FOR
Patent Number	: 7645447	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/113,821	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **273** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

Mail Date: 04/20/2010

Applicant	: Scott G. Klingbyle	: DECISION ON REQUEST FOR
Patent Number	: 7581352	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,834	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **27** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

In re Application of
HEISTERMANN, FRITZ, et al.
Application No. 11/113,843
Filed: April 25, 2005
For: **SIGNAL DECODING METHOD AND APPARATUS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 27, 2006 and supplemented August 10, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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MARRELL HANEY
1301 WEST 96TH STREET
CHICAGO, IL 60643

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OFFICE OF PETITIONS

In re Application of Marrell Haney Application No. 11/113,851 Filed: April 25, 2005 For: GARAGE DOOR, SCREEN STORING SYSTEM	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 10, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition includes a statement by Marrell Haney attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3634 for action on the merits commensurate with this decision.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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PATTI , HEWITT & AREZINA LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO, IL 60602

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OFFICE OF PETITIONS

In re Application of

Benco, et al.

Application No. 11/113,869

Filed: April 25, 2005

Attorney Docket No.LUC-530/Benco 121-37-88-1

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed September 17, 2007.

The petition is **granted**.

This application was held abandoned April 10, 2007, after no reply was received to the final Office action mailed January 9, 2007. The notice set forth a shortened 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 April 10, 2007. A Notice of Abandonment was mailed July 26, 2007. The instant petition was filed on September 17, 2007. Petitioner maintains that the final Office action was never received.

A review of the application file history reveals that the final Office action was returned to the USPTO in January 17, 2007 and that the envelope containing the final Office action had no mailing address. The evidence is convincing that petitioner did not receive the final Office action. The petition is granted. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2600, GAU 2617 for further processing that may include remailing the final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Stephen H. Wolff et al.	:	
Application No. 11/113,886	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. WOLFF 3.0-018	:	FROM RECORD
	:	

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 6, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. This change has been made in order to avoid subsequent correspondence being directed to an incorrect address or to a practitioner who has not been appointed as practitioner of record by the applicant.

Accordingly, the request to withdraw from record cannot be approved because the change of correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened. The file record indicates that an assignment has been filed with the Assignment Branch. In order to update the application, a copy of the actual assignment and/or a Statement under 37 CFR 3.73(b), must be submitted with any renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Wolff Medical Marketing and Design, LLC
271 North Avenue Suite 805
New Rochelle, NY 10801

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NOV 12 2009

Kragulac & Kalnay, LLC - Oracle
4700 Rockside Road
Summit One, Suite 510
Independence, Ohio 44131

In re Application of:	:	
Yadappanavar et al.	:	**PETITION TO WITHDRAW**
Application No. 11/113,906	:	**RESTRICTION REQUIREMENT**
Filed: April 25, 2005	:	**UNDER 37 C.F.R. 1.144**
Attorney Docket No.: 27252-30	:	
For: OPTIMIMIZATION OF CARRIER	:	
SELECTION FOR TRANSPORTATION	:	
PLANNING SYSTEM	:	

This is in response to applicant's petition filed on May 12, 2009, to request that the April 15, 2008 restriction requirement under 37 C.F.R. 1.144 be withdrawn.

The petition is **GRANTED.**

According to M.P.E.P. § 808, there are "two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed"; and "(B) There would be a serious burden on the examiner if restriction is not required." Petitioner states that the examiner failed to meet the necessary burden requiring the inventions to be independent or distinct as claimed. Petitioner does not argue the requirement of a serious burden on examiner and therefore requirement B from § 808 is not reviewed below.

As Petitioner points out, Claims 1-7 (Group I), Claims 8-12 (Group II), and Claims 13-14 and 15-17 (Group III) were restricted each from another as subcombinations usable together. M.P.E.P. §806.05(d) provides that "two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants...The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable....The examiner must show, by way of example, that one of the subcombinations has utility other than the disclosed combination."

Petitioner first states that the examiner has failed to show the subcombinations are not obvious variants of each other. Petitioner also states that Groups I, II, and III overlap in

scope. More specifically, petitioner states that the limitation "a load building logic configured to select a primary carrier for each trip in a set of trips, where a trip defines a route for transporting a load from a source to a destination and includes an assigned carrier, a trip cost, and one or more local trip constraints, the load building logic being configured to select the primary carrier for each trip based on a lowest cost for the trip based on the one or more local trip constraints" appearing in claim 1 is similar in scope to the limitation "selecting a primary carrier for each trip in a set of trips, a carrier selected for transporting a load, the primary carrier being selected based on one or more local trip constraints, and a trip cost" appearing in claim 8. Petitioner also states that this limitation in claim 1 is similar in scope to the limitation "means for selecting a primary carrier for each trip in a set of trips, where a trip defines a route for transporting a load from a source to a destination and includes an assigned carrier, a trip cost, and one or more local trip constraints the primary carrier being selected for each trip based on a lowest cost for the trip based on the one or more local trip constraints". Petitioner further states that the limitation "selecting a primary carrier for each trip in a set of trips, a carrier selected for transporting a load, the primary carrier being selected based on one or more local trip constraints, and a trip cost" appearing in claim 8 is similar in scope to the limitation "means for selecting a primary carrier for each trip in a set of trips, where a trip defines a route for transporting a load from a source to a destination and includes an assigned carrier, a trip cost, and one or more local trip constraints the primary carrier being selected for each trip based on a lowest cost for the trip based on the one or more local trip constraints".

A review of the record indicates that applicants statements are correct and that there is an overlap in scope between the claimed inventions in each of the groups I – III.

In view of the findings above, the restriction requirement with regard to claims 1-17 is withdrawn. Accordingly, the application will be returned to the examiner to examine claims 1-17 in accordance with the Request for Continued Examination filed on 2/24/2009.

Summary: ***Petition Granted***

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

JWH/SNM: 10/29/2009

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/27/2010

Applicant	: Darren C. Ashby	: DECISION ON REQUEST FOR
Patent Number	: 7645212	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/113,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexander R. Pagano Esq.
440 Speedwell Avenue
Morris Plains NJ 07950

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OFFICE OF PETITIONS

In re Application of	:	
Douglas R. Cassel et al.	:	
Application No. 11/113,933	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 1051-74	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 31, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the attorney of record declaring that the applicant 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 1611 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Daniel J. Gadler	: DECISION ON REQUEST FOR
Patent Number	: 7650231	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,941	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1304** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCCARTER & ENGLISH, LLP STAMFORD OFFICE
FINANCIAL CENTRE , SUITE 304A
695 EAST MAIN STREET
STAMFORD CT 06901-2138

RECEIVED
DEC 23 2008
OFFICE OF PETITIONS

In re Application of
Brodie et al.
Application No. 11/113,950
Filed: April 25, 2005
Attorney Docket No. 99342.00058

ON PETITION

This is a decision on the petition, filed November 7, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **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. No additional petition fee is required.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country. 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 lacks item 1.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on November 7, 2008. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b). Although the instant petition was made through form PTO/SB/64, form PTO/SB/64a may be more helpful in completing the petition.

Also, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: McCarter & English, LLP
185 Asylum St., City Place I
Hartford, CT 06103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD CT 06103

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of :
Brodie et al. :
Application No. 11/113,950 :
Filed: April 25, 2005 :
Attorney Docket No. 99342.00058 :

ON PETITION

This is a decision on the renewed petition, filed January 9, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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 April 24, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 14, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

This application is being forwarded to Technology Center Art Unit 1794 for examination in due course.

Christopher Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/113,950	04/25/2005	John Brodie	99342.00058

CONFIRMATION NO. 1401

21832
MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD, CT 06103

NONPUBLICATION RESCISSION LETTER

OC000000034366238

Date Mailed: 02/03/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/14/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/cbottorff/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DAVID NEWMAN CHARTERED
P. O. BOX 956
INDIAN HEAD, MD 20640

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OFFICE OF PETITIONS

In re Application of

GARODNICK, Joseph
Application No. 11/113,956
Filed: April 25, 2005
Attorney Docket No. **LINX37US**

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 8, 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 "undersigned attorney is retiring" 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ED GOLDSTEIN**
GOLDSTEIN FAUCETT & PERBERG LLP
1177 WEST LOOP SOUTH, 4TH FLOOR
HOUSTON, TX 77027

UNITED STATES PATENT AND TRADEMARK OFFICE

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EPSTEIN & GERKEN
1901 RESEARCH BLVD
SUITE 340
ROCKVILLE MD 20850

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Joseph Garodnick :
Application No. 11/113,956 : ON PETITION
Filed: April 25, 2005 :
Attorney Docket No. Linex 37 US :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 27, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed May 28, 2008. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on August 29, 2008. A Notice of Abandonment was mailed on December 31, 2008.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such

inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Group Art Unit 2611 for consideration of the Amendment filed May 27, 2009.

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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WOOD, HERRON & EVANS, LLP (NORDSON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of
Evans and Fell
Application No.: 11/113,959
Filed: April 25, 2005
Attorney Docket No:NOR/1188
For: SWITCH GUN DRIVER AND METHOD

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed August 19, 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 25, 2005, without a properly executed declaration. On May 24, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration, surcharge for the late filing of the same, and the payment of the filing fee. On August 19, 2005, the instant petition was filed along with a request for an extension of time within the first month.

Petitioner has shown that inventor Fell has constructively refused to join the prosecution of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 04/21/2010

Applicant	: Adam M. Gilmore	: DECISION ON REQUEST FOR
Patent Number	: 7569839	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/113,961	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **41** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/26/2010

Applicant	: Gerard Delegue	: DECISION ON REQUEST FOR
Patent Number	: 7590062	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/113,991	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1177** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
Taiji Noda	:	
Application No. 11/114,004	:	ON PETITION
Filed: April 26, 2005	:	
Attorney Docket No. 071971-0213		

This is a decision on the petition filed, August 22, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 31, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Nagata et al.	:	DECISION ACCORDING STATUS
Application No. 11/114,030	:	UNDER 37 CFR 1.47(a)
Filed: April 26, 2005	:	
Attorney Docket Number: 271290US6	:	

This is in response to the petition under 37 CFR 1.47(a), filed on December 20, 2005. Applicant obtained an extension of time for response within the fifth month. According, the petition is filed timely.

The petition is granted.

Applicant showed that Kenji Kameda, the non-signing inventor, could not be located. Specifically, the Declaration of Facts of Junichi Fujita indicated that he made diligent efforts to obtain the current address of the non-signing inventor in order to present him with the application papers and execute the declaration. Applicant enclosed a copy of the correspondence mailed to the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Applicant paid a $130.00 petition fee; however, the current fee is $200.00. The Office will charge the difference owed in the amount of $70.00 to the Deposit Account, as authorized.

The matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

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
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Kenji Kameda
c/o SONY-KIHARA RESEARCH CENTER INC.,
1-14-10, Higashi Gotanda
Shinagawa-ku, Tokyo, Japan

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Nagata et al.	:	LETTER
Application No. 11/114,030	:	
Filed: April 26, 2005	:	
Attorney Docket Number: 271290US6	:	

Dear Mr. Kameda:

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).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

In re Application of	:	
Kazuaki Nagamatsu	:	
Application No. 11/114,053	:	ON PETITION
Filed: April 26, 2005	:	
Attorney Docket No. AI 241 D2	:	

This is a decision on the petition, filed March 16, 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 12, 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 3611 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 05/18/2010

Applicant	: Joey Shah	: DECISION ON REQUEST FOR
Patent Number	: 7619670	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/114,094	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **824** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Kyu-Woong Cho	: DECISION ON REQUEST FOR
Patent Number	: 7629072	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1101** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of
Kazuo Hashimi, et al.
Application No. 11/114,111
Filed: April 26, 2005
Attorney Docket No. 052509

ON PETITION

This is a decision in response to the petition, filed June 16, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 11, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 12, 2009. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

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). It is noted that petitioner was charged $1,730 for a 4-month petition for extension of time on June 16, 2009. Since the response was submitted after the maximum extendable period for reply, the provisions of 37 CFR 1.136(a) are not available. Accordingly, the $1730 extension fee is being credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2812 for appropriate action by the Examiner in the normal course of business on the amendment received June 16, 2009.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/24/09

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/114,163 Patent No.: 7,245,417

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

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: There is not any new matter found in the Certificate of Correction. It is okay for enter. Examiner Tra _____

/Ricky Mack/ — **SPE**

2873 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/1/08

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction on Patent No.: 7331741

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:
All changes approved.

7/9/08

DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER
SPE

3726
Art Unit

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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caf

8-30-07

In re application of	:	
SANG-HYUN LEE et al.	:	DECISION ON
Serial No. 11/114,196	:	PETITION
Filed: April 26, 2005	:	
For: METHOD OF MANUFACTURING NANO-WIRE	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 filed August 10, 2007.

On June 6, 2007, final office action was mailed to Applicants. Applicants responded to this office action with an amendment after final that was filed on August 6, 2007. Note that on page 9, lines 8-9 of the remarks filed August 6, 2007 it is stated: "The certified translation of Korean Patent Application No. 10-2004-0029193 will be provided shortly." The examiner refused entry of the amendment in an advisory action mailed August 14, 2007.

On August 10, 2007, the instant petition under 37 CFR 1.181 was filed to request the entry of the certification of an English language translation of Applicants' Korean Priority application No. 10-2003-0075800.

DECISION

First, it is noted that a review of the oath and bibliographic data sheet indicate that the Korean Priority application for the present application is 10-2004-0029193 not 10-2003-0075800 as stated in the petition. Secondly, it is noted that the English language translation has not been filed in the present application. As stated above, the response filed August 6, 2007 states: "The certified translation of Korean Patent Application No. 10-2004-0029193 will be provided shortly." Also, note that page two of the petition refers to "a written Response filed on the 13th of July 2007" and "a communication issued on the 26th of July 2007". Neither of these papers is of record in the present application.

Accordingly, the petition for entry of the certification of an English language translation of Applicants' Korean Priority application No. 10-2003-0075800 is **DENIED.**

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

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OFFICE OF PETITIONS

In re Application of Orange et al. :
Application No. 11/114,201 : Decision on Petition
Filing Date: April 26, 2005 :
Attorney Docket No. 10577-0003 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 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 non-final Office action mailed March 2, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on June 3, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2833 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Stefan Nagel :
Application No. 11/114,212 :
Filed: April 7, 2005 :
Attorney Docket No. 23244 :

ON PETITION

This is a decision on the papers styled, "Request for Revision of Assigned Filing Date," filed May 31, 2005, which has been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of April 7, 2005, rather than the presently accorded filing date of April 11, 2005.

Petitioners allege that the application was deposited in Express Mail service on April 7, 2005. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV467340982US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of April 7, 2005.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of April 7, 2005.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of April 7, 2005, and issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Thorsten BUCKSCH
Application No. 11/114,226
Filed: April 26, 2005
Attorney Docket No. 543822014300

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: THORSTEN BUCKSCH
GERHARDSTR. 29
MUNCHEN, GERMANY

cc: SLATER & MATSIL L.L.P.
17950 PRESTON ROAD,
SUITE 1000
DALLAS, TX 75252

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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OFFICE OF PETITIONS

In re Application of	:	
Dale McClellan et al.	:	
U.S. Patent No. 7,243,590	:	ON PETITION
Issued: July 17, 2007	:	
Application No. 11/114,232	:	
Filed: April 26, 2005	:	
Attorney Docket No. STS-0001	:	

This is a decision on the petition filed on February 12, 2008, entitled "REQUEST TO CORRECT INVENTORSHIP OF A PATENT UNDER 37 CFR 1.324 OR ALTERNATIVELY UNDER 37 CFR 1.182".

The petition is **DISMISSED**.

The petition under 37 CFR 1.324 will be addressed first. Petitioner would like to change the inventorship in the instant patent by deleting the patentee Alfred R. Clark from the patent under the provisions of 37 CFR 1.324. The following requirements must be met in order to change the inventorship in a patent:

> 1) A statement under 37 CFR 1.324(b)(1) is required from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part.
>
> 2) All current inventors who did not submit a statement under 37 CFR 1.324(b)(1) must submit a statement either agreeing to the change of inventorship, or stating that they have no disagreement with regard to the requested change.
>
> The phrase "Current inventors" includes all of the inventors, those being retained as well as those being deleted. However, the "current inventors" need not make a statement that the inventorship error occurred without deceptive intent.
>
> 3) A statement from all the assignees consenting to the change in inventorship.

The petition lacks item 2.

One of the patentees, Alfred R. Clark, refuses to sign the statement either agreeing to the change of inventorship, or stating that he has no disagreement with regard to the requested change. Therefore, the request cannot be granted. The requirements here are requirements of 35 USC 256 and as such, the statute must be complied with and cannot be waived by the U.S. Patent and Trademark Office.

Petitioner, however, is not without some form of relief. As set forth in MPEP 1481.02,

> If an inventor is not available, or refuses, to submit a statement, the assignee of the patent may wish to consider filing a reissue application to correct inventorship, because the inventor's statement is not required for a non-broadening reissue application to correct inventorship. See MPEP § 1412.04.

The filing of a reissue application is provided for within the rules as a means for addressing this situation. Petitions under 37 CFR 1.182 are for situations that are not provided for by the rules. Where the statute or rules specifically address the issue, relief under 37 CFR 1.182 is inappropriate. Such is the case here. Thus the petition under 37 CFR 1.182 is dismissed.

Petitioner's deposit account has been charged $270 which is the difference between the fee currently paid and the fee for consideration of a petition under 37 CFR 1.182.

This application is being forwarded to the Files Repository.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3687.

Anthony Knight
Supervisor
Office of Petitions

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Scott D. Gorman et al	:	DECISION ON PETITION
Application No. 11/114,233	:	TO WITHDRAW
Filed: April 26, 2005	:	FROM RECORD
Attorney Docket No. 07588.0087	:	

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 24, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the applicants. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

This application is being referred to the Office of Initial Patent Examination for preexamination processing.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

Deborah Katz
USPTO
600 Dulany Street, #MDW 917D
Alexandria, VA 22314

In re Application of	:	
Scott David Gorman et al.	:	
Application No. 11/114,233	:	DECISION ON PETITION
Filed: April 26, 2005	:	TO WITHDRAW
Attorney Docket No. 2035-47	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 24, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah Katz. Deborah Katz has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Finnegan, Henderson, Farabow, Garrett & Dunner LLP**
901 New York Avenue, NW
Washington D.C. 20001-4413

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

In re Application of :
Horie, et al. :
Application No. 11/114,256 : DECISION GRANTING PETITION
Filed: April 25, 2005 :
Attorney Docket No. NMCIP050 :

This is a decision on the petition filed June 6, 2005, to vacate the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed May 27, 2005.

The petition is **granted**.

On April 25, 2005, the above-identified application was filed. However, on May 27, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had not been accorded a filing date because drawings were not found with the application papers, but appeared to be required to understand the invention claimed. The notice set a non-extendable period for reply two-month from its mailing date.

In response, on June 6, 2005, applicant filed the present petition, a copy of the drawings as described in the specification, and an Office date-stamped postcard receipt acknowledging receipt of 2 sheets of the drawings, among other items.

Upon review of the record, the drawings were not located among the application papers. The evidence is convincing, however, that the drawings accompanied the application papers on April 25, 2005. Therefore, the application, including the drawings, was complete on filing and entitled to a filing date of April 25, 2005, with 2 sheets of drawing as part of the original disclosure.

Accordingly, the petition is granted. The Notice is vacated and the petition fee will be refunded, in duce course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of April 25, 2005, using the 2 sheets of drawings filed.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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P O BOX 2005
TARRYTOWN NY 10591-9005

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OFFICE OF PETITIONS

In re Application of	:	
Wood et al.	:	
Application No. 11/114,279	:	DECISION GRANTING PETITION
Filed: 26 April, 2005	:	
Atty Docket No. 11/2-	:	
22819/A/CGC 2136/CON	:	

This is a decision in reference to the petition filed on 5 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 26 April, 2005, with Pages 46, 66, and 67 of the specification as a part of the original disclosure.

The petition is dismissed.

On 26 April, 2005, the application was filed.

On 9 June, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 26 April, 2005, but that Pages 46, 66, and 67 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 5 July, 2005, the present petition was filed. Petitioners apparently concede that Pages 46, 66, and 67 were inadvertently omitted from the application, but state that the omitted Pages are contained in Application No. 10/735,319, of which the present application is a continuation. Additionally, the application transmittal letter for the present application submitted with the original application papers on 26 April, 2005, states that this application is a continuation of Application No. 10/735,319, and states that the entire disclosure of the prior application "is hereby incorporated by reference therein."

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 page of specification was deposited on 26 April, 2005, nor request the 5 July, 2005 (the date the drawings were supplied), filing date.

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 46, 66, and 67 of the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Pages 46, 66, and 67 as a preliminary amendment. If Pages 46, 66, and 67 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 46, 66, and 67 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 26 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEWMAN & NEWMAN,
ATTORNEY AT LAW, LLP
505 FIFTH AVENUE SOUTH, SUITE 610
SEATTLE, WA 98104

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OFFICE OF PETITIONS

In re Application of	:	
James A. EDWARDS, et al	:	
Application No. 11/114,308	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. PES-001-CIP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 24, 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 Randall Moeller on behalf of the attorneys of record associated with Customer No. 55959.

The attorneys of record associated with Customer No. 55959 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first signing inventor at the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JAMES EDWARDS
P.O. BOX 908854
GAINESVILLE, GA 30501

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.
11/114,316	04/26/2005	Brenda Catherine Tenley	161853	9504

29399 7590 10/07/2005

JOHN S. BEULICK
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

EXAMINER
MILLER, ROSE MARY

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 10/07/2005

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

In re Application of TENLEY ET AL.
Appl. No.: 11/114,316
Filed: April 26, 2005
For: METHODS AND APPARATUS FOR INSPECTING A COMPONENT

DECISION ON PETITION
37 CFR 1.48(a)

In view of the papers filed September 1, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(b). The inventorship of this application has been changed by adding James Michael Donovan as co-inventor.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) correction of Office records to reflect the inventorship as corrected.

Hezron E. Williams
Director
Patent Examining Technology Center 2800

JOHN S. BEULICK
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
255 South Orange Avenue, Suite 1401
P.O. Box 3791
Orlando, Florida 32802

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OFFICE OF PETITIONS

In re Application of	:	
DAVID C. AUSTIN	:	
Application No. 11/114,340	:	DECISION ON PETITION
Filed: APRIL 26, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0094016	:	37 CFR 1.102(c)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2), filed April 26, 2005, 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 UNDER 37 CFR 1.102(c) is dismissed as **MOOT**.

A review of the status of the above-identified application indicates that on February 5, 2007 the application was placed in an allowed status.

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 Thurman K. Page at 571-272-0602.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center art unit 1724.

The application is being forwarded to the Technology Center Art Unit 1724 for appropriate action.

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

MURABITO, HAO & BARNES, L.L.P.
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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In re Application of	:	
Malachowsky et al.	:	
Application No. 11/114,348	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. MALK-P001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed June 6, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 7, 2007. A Notice of Abandonment was mailed October 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent and review of drawings submitted on March 12, 2008.

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Matthew B. Shoemake	: DECISION ON REQUEST FOR
Patent Number	: 7593478	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

STORM LLP
BANK OF AMERICA PLAZA
901 MAIN STREET, SUITE 7100
DALLAS, TX 75202

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of	:	
ROBERSON	:	
Application No. 11/114,356	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. WRCO 02708 C1US	:	FROM RECORD

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 06, 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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on July 07, 2006.

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 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: ROBIN ROBERSON
8900 INDEPENDENCE PKWY, #2103
PLANO, TX 75025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW May-10

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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MAY 27 2010

OFFICE OF PETITIONS

In re Application of Pollman et al. Application Number: 11/114422 Filing Date: 04/26/2005 Attorney Docket Number: 12144-0021001	: : : : : :	ON PETITION

This is a decision on the petition, filed on March 4, 2010, under 37 CFR 1.181, which is treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on February 10, 2010, for failure to reply to the Notice of Allowance and Fee(s) Due mailed on November 9, 2009, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on March 1, 2010.

Petitioners assert that the holding of abandonment should be withdrawn because the Notice of Allowance and Fee(s) Due mailed on November 9, 2009, was mailed in error. Specifically, petitioners assert:

> The request for continued examination (RCE) filed on October 23, 2009 was entered in the U.S. Patent Office computer system twice. As a result of this erroneous double entering of the RCE filed on October 23, 2009, two Notices of Allowance issued. The first Notice of Allowance issued on November 2, 2009. The second Notice of Allowance erroneously issued on November 9, 2009. That is, the second request for continued examination (RCE) triggered another Notice of Allowance to be issued on November 9, 2009 in error.

Petitioners' arguments have been considered, but are not persuasive.

On November 2, 2009, a Notice of *Allowability* was mailed. No Notice of Allowance was mailed on November 2, 2009. A Notice of Allowance and Fee(s) Due and a Notice of Allowability set forth concurrent but distinct requirements. As such, the Notice of Allowability mailed on November 2, 2009, was not a requirement for the issue fee to be paid.

The Notice of Allowability mailed on November 2, 2009, stated that if not included herewith or mailed previously a Notice of Allowance (PTOL-85) would be mailed in due course. As such, petitioners were informed in the Notice of Allowability mailed on November 2, 2009 that a Notice of Allowance would be forthcoming.

Moreover, the issue fee was required to be paid after the mailing of the Notice of Allowance. As stated in MPEP 1306, the issue fee due does not reflect a credit for any previously paid issue fee in the application. If an issue fee has previously been paid in the application as reflected in the Notice of Allowance, the return of Part B (Fee(s) Transmittal form) will be considered a request to reapply the previously paid issue fee toward the issue fee that is now due. As such, petitioners were required by the Notice of Allowance mailed on November 9, 2009, to either pay the issue fee or to file the Fee(s) Transmittal form requesting that a previously paid issue fee be reapplied to the issue fee now due.

Further, the Notice of Allowance and Fee(s) Due mailed on November 9, 2009, states, in pertinent part, that **IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

MPEP 1306 states that:

> The issue fee and any required publication fee are due 3 months from the date of the Notice of Allowance. The amount of the issue fee and any required publication fee are shown on the Notice of Allowance. The Notice of Allowance will also reflect any issue fee previously paid in the application. The issue fee due does not reflect a credit for any previously paid issue fee in the application. If an issue fee has previously been paid in the application as reflected in the Notice of Allowance, the return of Part B (Fee(s) Transmittal form) will be considered a request to reapply the previously paid issue fee toward the issue fee that is now due. For example, if the application was allowed

> and the issue fee paid, but applicant withdrew the application from issue and filed a Request for Continued Examination (RCE) and the application was later allowed, the Notice of Allowance will reflect an issue fee amount that is due and the issue fee that was previously paid.

A review of the record reveals that an issue fee and publication fee were received on November 2, 2009. However, the Notice of Allowance and Fee(s) mailed on November 9, 2009 set a new requirement, and a new time period, for submission of the issue and publication fees. While petitioner is correct that an issue and publication fee were previously paid, petitioner was still required to return the PTOL-85(b) transmittal form to request that a previously paid issue fee and publication fee be applied to the issue and publication fees now due: petitioner was not relieved of the obligation of filing a reply to the Notice of Allowance. Petitioners' belief that the Notice of Allowance mailed on November 9, 2009, was mailed in error does not excuse a failure to respond to the Notice. Simply put, the failure of applicant to timely file a reply to the Notice of Allowance and Fee(s) Due mailed on November 9, 2009, requesting that the previously paid amounts be applied to the issue and publication fee(s) now due constitutes a failure to timely file the issue fee.

In view of the above, the application was properly held abandoned or lapsed for failure to pay the issue fee.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 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 a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

A reply may also be filed using the EFS-Web system of the USPTO.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. 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 any 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)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Type 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 the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Shmuel Shaffer	: DECISION ON REQUEST FOR
Patent Number	: 7630487	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,431	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1261** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHRISTOPHER F. REGAN, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH &
GILCHRIST, P.A.
P.O. BOX 3791
ORLANDO, FL 32802-3791

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OCT 17 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robert M. Montgomery et al :
Application No. 11/114,434 :
Filed: April 26, 2005 :
Attorney Docket No. GCSD-1558 (51382) :

This is a decision on the petition, filed October 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 22, 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 2874 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
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Paper No. _____

Date : October 17, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Robert M. Montgomery et al
Application No. :11/114,434
Filed :April 26, 2005

The above-identified application has been assigned Patent No. 7,130,508 and an issue date of October 31, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 31, 2006:

"All reference to Patent No. 7,130,508 to Robert M. Montgomery et al of Florida for SPIRAL WAVEGUIDE SLOW WAVE RESONATOR STRUCTURE appearing in the Official Gazette of October 31, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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WILLIAM REDVERS BELISLE
7901 LAFOURCHE ST.
NEW ORLEANS LA 70127

MAILED

JUN 0 7 2010

OFFICE OF PETITIONS

In re Application of	:	
William Redvers BELISLE	:	
Application No. 11/114,435	:	DECISION ON PETITION
Filed: April 26, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition, filed December 02, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of May 12, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 12, 2009.

Petitioner states that a timely reply was mailed via on July 13, 2009. Petitioner has submitted as evidence a copies of a U.S.P.S certified mail receipt and a return receipt from the Office which bears a receiving date July 17, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> 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 satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 12, 2009 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on July 13, 2009.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 3715 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

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DURA AUTOMOTIVE SYSTEMS INC.
INTELLECTUAL PROPERTY DEPT.
2791 RESEARCH DRIVE
ROCHESTER HILLS, MI 48309

Mail Date: 04/21/2010

Applicant	: Gregory Philip Ruhlander	: DECISION ON REQUEST FOR
Patent Number	: 7568405	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,483	: OF WYETH
Filed	: 04/26/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Vijay Rajagopalan	: DECISION ON REQUEST FOR
Patent Number	: 7655828	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,490	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1056** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/114,525	04/26/2005	Maurizio Pilu	200314722-2	9982

7590 05/08/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
POON, KING Y

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
05/08/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 05/16/2008 NFARMER
04/28/2005 EHAILE1 00000071 002025 11114525
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR
05 FC:1202 200.00 CR

FORM PET651G (Rev. 08/07)

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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SEP 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,524,864 :
Issued: April 28, 2009 :
Application No. 11/114,535 : PATENT TERM ADJUSTMENT
Filed: April 25, 2005 :
Dkt. No.: 20712-509 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 13, 2009 and the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed June 26, 2009.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,524,864 on April 28, 2009. The patent issued with a PTA of 542 days. The requests for reconsideration of patent term adjustment were timely filed. See, 37 CFR 1.705. The application filed March 13, 2009 request that the patent term adjustment be increased from 542 days to 776 days. The application filed June 26, 2009 requests that the patent term adjustment be increased from 542 days to 910 days.

Patentees request reconsideration 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).

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 542 days is correct. At the time of issue, the application was pending three years and 368 days. At issue is whether patentees should accrue an additional 368 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 542 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 368 days of delay in issuance of the patent more than three years after the date that the application was filed overlaps with the period of 542 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of

the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

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 25, 2005, to the date the patent issued on April 28, 2009. Prior to the issuance of the patent, 542 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 368 days for Office delay in issuing the patent overlap with the 542 days of Office examination delay. The Office did not delay 542 days and also delay an additional 368 days. Accordingly, as the 368 days attributable to the delay in the issuance of the patent overlaps

---

[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).

with the adjustment of 542 days attributable to grounds specified in § 1.702(a)(1), entry of both periods is not warranted.

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

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SEP 29 2008

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
Sean C. O'BRIEN, et al	:	
Application No. 11/114,558	:	DECISION ON PETITION
Filed: April 26, 2005	:	
Attorney Docket No. TI-39055	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2008 , to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 4, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 2, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11114558 Total Records Found: 11

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
08/29/2008	00000857	4	1453	$1,540.00	08/28/2008	DA 200668
08/29/2008	00000008	1	1501	$1,440.00	08/28/2008	DA 200668
08/29/2008	00000009	1	1504	$300.00	08/28/2008	DA 200668
02/14/2008	00000004	1	1202	$50.00	02/07/2008	DA 200668
02/14/2008	00000005	1	1253	$1,050.00	02/07/2008	DA 200668
05/04/2005	00000018	1	8021	$40.00	04/26/2005	DA 200668
04/28/2005	00000255	1	1011	$300.00	04/26/2005	DA 200668
04/28/2005	00000256	1	1111	$500.00	04/26/2005	DA 200668
04/28/2005	00000257	1	1311	$200.00	04/26/2005	DA 200668
04/28/2005	00000258	1	1202	$100.00	04/26/2005	DA 200668
04/28/2005	00000259	1	1201	$1,000.00	04/26/2005	DA 200668

PTO/SB/64 (08-08)
Approved for use through 08/31/2008. 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) T39055

First named inventor: Sean C. O'Brien

Application No.: 11/114,558 Art Unit: 2825

Filed: April 26, 2005 Examiner: Whitmore, Stacy

Title: MERGING SUB-RESOLUTION ASSIST FEATURES OF A PHOTOLITHOGRAPHIC MASK

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 $ 1540 (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 $ 1740.

☐ has been paid previously on _____.
☑ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Jacqueline J. Garner/	August 28, 2008
Signature	Date
Jacqueline J. Garner	36,144
Typed or printed name	Registration Number, if applicable
7839 Churchill Way, M.S. 3999	2145329348
Address	Telephone Number
Dallas, Texas	
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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/17/09

Paper No.: —

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/114567 Patent No.: 7498642 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Zandra V. Smith/
SPE

2822
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

Paper No. 3152006

HARRINGTON & SMITH, LLP
4 RESERCH DRIVE
SHELTON, CT 06484-6212

MAR 2 1 2006

In re Application of:
Kris Boutin
Serial No.: 11/114571
Filed: April 25, 2005
Attorney Docket No.: **003B.0078.U1**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed November 28, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Paula Bradley at (571) 272-2800 ext 33.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PATRICK R. SCANLON
PRETI FLAHERTY BELIVEAU & PACHIOS, LLP
ONE CITY CENTER
PORTLAND, ME 04112-9546

COPY MAILED
SEP 04 2008

In re Application of	:	
Scott A. Richer, Sr.	:	
Application No. 11/114,586	:	ON PETITION
Filed: April 26, 2005	:	
Attorney Docket No. 05-021	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 7, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed April 5, 2007. A Notice of Abandonment was mailed on October 16, 2007.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on April 7, 2008 has been accepted and made of record. A Notice of Acceptance is enclosed with this decision.

This application file is being referred to Technology Center Art Unit 3652 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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
11/114,586	04/26/2005	Scott A. Richer SR.	05-021

CONFIRMATION NO. 9166

POA ACCEPTANCE LETTER

47231
PATRICK R. SCANLON
PRETI FLAHERTY BELIVEAU & PACHIOS LLP
ONE CITY CENTER
PORTLAND, ME 04112-9546

OC000000031914532

Date Mailed: 09/04/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/07/2008.

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.

/amsmith/

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

Samuel W. Apicelli, Esquire
Duane Morris LLP
305 North Front Street
P.O. Box 1003
Harrisburg, PA 17108-1003

COPY MAILED
SEP 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Alexander V. Samkov et al.	:	
Application No. 11/114,587	:	DECISION ON PETITION
Filed: April 26, 2005	:	TO WITHDRAW
Attorney Docket No. H2311-00003	:	FROM RECORD
	:	

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 13, 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 Samuel W. Apicelli on behalf of all attorneys of record who are associated with Customer No. 41396.

All attorneys/agents associated with the Customer No. 41396 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.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Alexander V. Samkov**
ul. Generala Tuleneva 1, #13
Moscow, 117311
Russian Federation

cc: **Maria Eliseeva**
Houston Eliseeva LLP
4 Militia Drive, Suite 4
Lexington, MA 02421

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
11/114,607	04/25/2005	2683	2150	062891.1577	2	27	7

CONFIRMATION NO. 9200

CORRECTED FILING RECEIPT

OC000000018038372

05073
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Date Mailed: 02/10/2006

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)

Anand K. Oswal, Santa Clara, CA;
Viren K. Malaviya, Cupertino, CA;
John G. Waclawsky, Frederick, MD;

Assignment For Published Patent Application

Cisco Technology, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **05073**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/114,607

Projected Publication Date: 10/26/2006

Non-Publication Request: No

Early Publication Request: No

Title

Authorizing a mobile node for service

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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

DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

Mail Date: 06/29/2010

Applicant	: Pramode K. Verma	: DECISION ON REQUEST FOR
Patent Number	: 7668135	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/114,619	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/11/09 Paper No.: —

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/114639 Patent No.: 7462861 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

In Claim 1 change
"an Electrode 22"
"a second ohmic contact"

SK (Examiner) 7/27/09

SPE

2814
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SUMMA, ADDITON
& ASHE, P.A.
PATENT ATTORNEYS

11610 NORTH COMMUNITY HOUSE RD.
SUITE 200
BALLANTYNE CORPORATE PARK
CHARLOTTE, NC 28277-2199
T: 704.945.6700
F: 704.945.6735
W: WWW.SUMMALAW.COM

January 29, 2009

Commissioner for Patents
Office of Patent Publication
Attention: Certificates of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

RE: **Patent No.:** 7,462,861
Application No.: 11/114,639
Inventor: David Beardsley Slater, Jr., *et al.*
Issue Date: December 9, 2008
Title: LED Bonding Structures and Methods of Fabricating LED Bonding Structures

Dear Commissioner:

Applicants respectfully request that a Certificate of Correction be issued for the above-referenced patent in accordance with 35 U.S.C. § 254 and 37 C.F.R. § 1.322. This request is made in order to correct errors incurred through the fault of the Patent Office.

The correction of Claim 1 of Patent No. 7,384,809 is set forth on the Certificate of Correction attached herewith.

Claim 1 (formally Claim 28) as printed differs from Claim 28 as appealed. Claim 1 as printed includes language submitted in a post-final response that the Examiner refused to enter. Upon the Examiner's refusal to enter the post-final response, Applicants filed their appeal on the basis of the pre-final set of claims. The appeal was considered and Notices of Allowance and Allowability were issued.

In the appealed (pre-final) claims, the last phrase of Claim 28 recites "a second ohmic contact to said conductive substrate opposite from said epitaxial region." In the published patent, the words "an electrode" (from the post-final claims) replace "a second ohmic contact."

The chronology is as follows:

1. July 27, 2007 – The Applicants filed amendments and remarks in response to a Non-final Office Action.

2. October 16, 2007 – The Examiner issued a Final Office Action.

3. December 12, 2007 – The Applicants filed further amendments and remarks in response to the Final Office Action.

4. March 31, 2008 – The Examiner issued an Advisory Action and refused to enter the December 12, 2007 amendments.

5. July 11, 2008 – The Applicants filed an Appeal Brief on the basis of the entered amendments; i.e., the amendments in the July 27, 2007 response.

6. September 9, 2008 – The Appeal Conference issued Notices of Allowance and Allowability.

Accordingly, the printed patent should include the language of Claim 28 as appealed (i.e., from the July 27, 2007 response). Therefore, Applicants request that the PTO issue a Certificate of Correction to this effect. Because the PTO is at fault in this matter, no fee is enclosed.

Thank you for your prompt assistance in this matter.

Very truly yours,

Philip Summa
Reg. No. 31,573

Attachment

021176
Summa, Additon & Ashe, P.A.
11610 North Community House Road
Suite 200
Charlotte, NC 28277-2162
Telephone: 704-945-6701
Facsimile: 704-945-6735

S:\FIRM DOCS\5000\317\Cert Corr Request.doc

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. : 7,462,861

APPLICATION NO.: 11/114,639

ISSUE DATE : December 9, 2008

INVENTOR(S) : David Beardsley Slater, Jr., John Adam Edmond

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:

In the Claims:

Claim 1 at Column 6, line 24: delete "an electrode **22** to said conductive substrate opposite from"

and insert -- **a second ohmic contact 22** to said conductive substrate opposite from --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Summa, Additon & Ashe, P.A.
11610 N. Community House Road, Suite 200, Charlotte, NC 28277

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 21, 2007

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No./11/114652patent no.7193385

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Cite Glass 6/8/09

Walter Benson — SPE

2837 — Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 04/21/2010

Applicant	: Francois Rouyre	: DECISION ON REQUEST FOR
Patent Number	: 7607614	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: John Hatlestad	: DECISION ON REQUEST FOR
Patent Number	: 7603170	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1165** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Stanwood et al.	:	DECISION ON PETITION
Application No. 11/114,662	:	TO WITHDRAW
Filed: April 26, 2005	:	FROM RECORD
Attorney Docket No. CISCO13399	:	

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 6, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Procopio, Cory, Hargreaves & Savitch LLP, has been revoked by the assignee of the patent application on February 3, 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: DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/114,663	04/26/2005	3749	1000	8060/818	7	3	2

CONFIRMATION NO. 9221

CORRECTED FILING RECEIPT

OC000000016445680

Michael H. Baniak
BANIAK PINE & GANNON
Suite 1200
150 N. Wacker Drive
Chicago, IL 60201

Date Mailed: 07/05/2005

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)

Robert H. Buzzard, Warren, IN;
Ralph E. Morrison, South Royalton, VT;

Power of Attorney:

Michael Baniak–30608
Steven Courtright–40966
Timothy Morella–45277

Domestic Priority data as claimed by applicant

This application is a DIV of 10/741,770 12/19/2003
which is a DIV of 10/120,702 04/10/2002 PAT 6,705,310

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/114,663

Projected Publication Date: 08/25/2005

Non-Publication Request: No

Early Publication Request: No

Title

Wood burner with improved emissions

Preliminary Class

126

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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LEN TAYLOR, PATENT ATTORNEY
261 DAVENPORT STREET
SOMERVILLE NJ 08876

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APR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Arthur A. PILLA, et al	:	
Application No. 11/114,666	:	DECISION ON PETITION
Filed: April 26, 2005	:	
Attorney Docket No. 2005-IV-0004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2010. As required by the Notice of Allowance and Fee(s) Due, mailed October 30, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $755 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Bryan Z. Wei	: DECISION ON REQUEST FOR
Patent Number	: 7602972	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/114,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **661** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THOMSON LICENSING INC.
PATENT OPERATIONS
PO BOX 5312
PRINCETON NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of
Pascal Denoyelle et al.
Application No. 11/114,704
Filed: April 26, 2005
Attorney Docket No. PF040060

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed August 17, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on April 26, 2005, naming Pascal Denoyelle, Claude Meysen and Hassane Guermoud as joint inventors but without a signed declaration. Accordingly, on June 1, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed only by joint inventor Guermoud, the instant petition under 37 CFR 1.47(a) and a request for a one month extension of time was filed. The petition argues that joint inventors Denoyelle and Meysen refuse to sign the oath or declaration and thus by their actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to Mr. Denoyelle and Mr. Meysen and that they have not returned executed copies 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 the fee for a petition under 37 CFR 1.47 is set at $200.00. As per the authorization found in the response, deposit account no. 07-0832 has been charged in the amount of $200.00. See 37 CFR 17(g).

This matter will be referred to Technology Center 2673 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PASCAL DENOYELLE
19 ALLEE DES FRENES
38240 MEYLAN
FRANCE

CLAUDE MEYSEN
21 RUE DE LA CHARTREUSE
38120 SAINT EGREVE
FRANCE

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SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of
Pascal Denoyelle et al.
Application No. 11/114,704
Filed: April 26, 2005
For: PRIMING METHOD IN A PLASMA PANEL

Dear Mr. Denoyelle and Mr. Meysen:

You are named as joint inventors 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 joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
THOMSON LICENSING INC.
PATENT OPERATIONS
PO BOX 5312
PRINCETON NJ 08543-5312

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FREDERICK W. GIBB, III
GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS MD 21401

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OFFICE OF PETITIONS

In re Application of

Francisco M. Valeriano
Application No. 11/114,708
Filed: April 26, 2005
Attorney Docket No. 20041250-US-NP

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 6, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***this application was transferred to new counsel***, 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: **Fay, Sharpe, Fagan, Minnich 7 McKee, LLP**
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Waite et al.	:	DECISION ON PETITION
Application No. 11/114,713	:	TO WITHDRAW
Filed: April 25, 2005	:	FROM RECORD
Attorney Docket No. 9131.0026-00	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on August 11, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted herein cannot be approved at this time since the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b).

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
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OCT 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Waite et al.	:	DECISION ON PETITION
Application No. 11/114,713	:	TO WITHDRAW
Filed: April 25, 2005	:	FROM RECORD
Attorney Docket No. 9131.0026-00	:	

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 on September 28, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted herein still cannot be approved since the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b).

Petitioner should note that the Office will only accept correspondence address changes to the most current address information provided the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, **or**, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Non Final Office action mailed September 29, 2009, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/28/09

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction for Appl. No.: 11114718 Patent No.: 7007079 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes are minor typos. Please approve. [illegible] 7/24/09

NATHAN FLYNN
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/28/09

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction for Appl. No.: 11114718 Patent No.: 7007079 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

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: _____

/Nathan Flynn/
SPE 2826
SPE Art Unit

Formatted: Bullets and Numbering

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PTOL-306 (REV. 7/03) 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
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SEP 22 2006
OFFICE OF PETITIONS

RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE
SUITE 800
WEST PALM BEACH FL 33401-6112

In re Application of	:	
Andrew W. Gordon, et al.	::	DECISION ON PETITION
Application No. 11/114,721	:	TO MAKE SPECIAL
Attorney Docket No. 8021-39	:	37 CFR 1.102(c)

This is a decision on the petition under 37 CFR 1.102(c) (2)(i), filed July 31, 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 V: Environmental Quality.

The petition is **DISMISSED**

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i), MPEP 708.02, Section V: Environmental Quality, must be accompanied by a statement by the applicant, assignee or attorney/agent registered to practice before the Office explaining how the invention materially contributes to the restoration or maintenance of one of the basic life-sustaining natural elements, i.e., air, water, and soil. No fee is required.

In the instant petition Applicants state that the invention relates to a system which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements and that the application on its face clearly describes how the invention achieves this based on paragraph [0008] of the specification in the published patent application. However, while indicating the use of offshore locations, mixing the treated wastewater with water from the surrounding environment before discharge and increasing hydraulic retention time the referenced paragraph fails to provide sufficient evidence that the instant invention materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements.

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center AU 1724 for action in its regular turn.

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.g

Date Mailed : May 29, 2007
Serial No. : 11/114721
Patent No. :7,153,423 B2
Patent Issued :December 26, 2006
Inventor(s) :Andrew W. Gordon
Title :WASTEWATER TREATMENT

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.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request is hereby denied.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decisions and Certificate
Of Correction Branch
(703) 308-9390 ext. 116
FAX 571-270-9942

Ruden, McClosky, Smith,
Schuster & Russell
222 Lakeview Avenue, Ste. 800
West Palm Beach, FL 33401

CBN/mt

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NETWORK APPLICANCE/BLAKELY
12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES CA 90025-1026

COPY MAILED

AUG 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Jason Ansel Lango	:	
Application No. 11/114,729	:	ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 5693P184	:	

This is a decision on the "PETITION FOR CORRECTION OF FILING DATE AND FILING RECEIPT", filed June 27, 2005, which is being treated as a petition under 37 C.F.R. § 1.10(c) to accord the above-identified application a filing date of April 25, 2005.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed on April 25, 2005, not April 26, 2005. In support thereof, petitioner has included a copy of an Express Mail mailing label, bearing Express Mail number EV 577696158 US, and containing a date-in entry and a USPS stamp dated April 25, 2005.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that there is a discrepancy between the filing date accorded by the Office and the date of deposit as shown by the "date-in" on the Express Mail mailing label, may petition the Office to accord the correspondence a filing date as of the "date-in" on the Express Mail mailing label, provided:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fees(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(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.

Here, petitioner has met requirements (1), (2), and (3) above.

In view of the above, the application is entitled to a filing date of April 25, 2005.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing (including the mailing of a new filing receipt) with a filing date of **April 25, 2005, <u>not</u> April 26, 2005**.

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

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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SEP 0 7 2006
OFFICE OF PETITIONS

In re Application of	:	
Mark A. Hill	:	
Application No. 11/114,738	:	DECISION ON PETITION
Filed: April 26, 2005	:	TO WITHDRAW
Attorney Docket No. 17138/002002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 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 the request was signed by Jonathon P. Osha on behalf of all attorneys of record who are associated with customer No. 22511.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Mark A. Hill at the address indicated below.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Mark A. Hill
Pay Centers, LLC
609 Knox Street, M/S 102
Houston, TX 77007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/114,738	04/26/2005	Mark A. Hill	17138/002002

CONFIRMATION NO. 1267

OC000000020105145

22511
OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

Date Mailed: 08/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2006.

- 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.

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Paper No.

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

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MAY 0 9 2006

OFFICE OF PETITIONS

In re Application of Sridhar Rajagopal, Matthew Shoemake and John Terry Application No. 11/114,752 Filed: April 25, 2005 Attorney Docket No. AWIQU.0107	DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a)," filed October 21, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on April 25, 2005, with a declaration executed by joint inventors Sridhar Rajagopal and Matthew Shoemake on behalf of themselves and on behalf of non-signing inventor John Terry. However, no petition under 1.47 accompanied this declaration. Accordingly, on May 19, 2005, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an oath or declaration executed by inventor Terry 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 late surcharge under §1.16(e); and the instant petition under § 1.47(a). This response was made timely by an accompanying petition (and fee) for extension of time for response within the third month. Applicants assert that status under §1.47(a) is proper because inventor Terry refuses to join in the application. In support thereof, applicants submitted the statement of executive administrative assistant Linda Johnson and supporting documentary evidence.

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).

Petitioner has not shown that inventor Terry has refused to join in the application. Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The evidence only supports a conclusion that the formal documents for signature were sent to inventor Terry. Neither Linda Johnson nor attorney Carstens indicate that the Federal Express package contained the patent application. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Thus, on renewed petition, applicants must establish that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Terry and he subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Furthermore, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Thus, on renewed petition, a new statement of facts by Linda Johnson or other proper party, such as the employee who presents the papers, is required.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter 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.

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of
Sridhar Rajagopal,
Matthew Shoemake and John Terry
Application No. 11/114,752
Filed: April 25, 2005
Attorney Docket No. AWIQU.0107

DECISION ACCORDING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)," filed June 30, 2006.

The petition is **GRANTED**.

The above-identified application was filed on April 25, 2005, with a declaration executed by joint inventors Sridhar Rajagopal and Matthew Shoemake on behalf of themselves and on behalf of non-signing inventor John Terry. In response to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed May 19, 2005, on October 21, 2005, applicants filed the initial petition under 1.47(a). By decision mailed May 9, 2006, the petition was dismissed for failure to show that inventor Terry had refused to join in the application. The petition failed to show that the inventor had been presented with all of the application papers.

On renewed petition, by statement of Linda Johnson, rule 47 applicants established that inventor Terry was presented the application papers on June 2, 2006. The evidence supports a conclusion that inventor Terry, by his conduct in not responding to the requests to sign the declaration, has refused to join in the application.

The declaration filed April 25, 2005, has been reviewed and found in compliance with § 1.63. The petition includes the petition fee and the last known address of inventor Terry.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John Terry
1402 Blakes Way
Garland TX 75042

COPY MAILED
JUL 24 2006
OFFICE OF PETITIONS

In re Application of Sridhar Rajagopal, Matthew Shoemake and John Terry Application No. 11/114,752 Filed: April 25, 2005 Attorney Docket No. AWIQU.0107	: : : : : : :	LETTER

Dear Mr. Terry:

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

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/114,753	04/26/2005	1714	1000	222102-1061	6	3	2

CONFIRMATION NO. 2625

CORRECTED FILING RECEIPT

OC000000016214481

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

Date Mailed: 06/08/2005

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)

Charles R. Kutal, Athens, GA;
Sirisoma Wanigatunga, Largo, FL;
Gabriel Keita, Oldsmar, FL;
Yassin Turshani, Largo, FL;

Power of Attorney: The patent practitioners associated with Customer Number **24504**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/126,572 04/19/2002

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/114,753

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Anionic and Lewis base photopolymerization process and its use for making optical articles

Preliminary Class

524

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

JUL 13 2007

Technology Center 2100

Ramin Aghevli
CAVEN & AGHEVLI
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of:
James R. Valsh et al.
Application No. 11/114,754
Filed: 26 April 2005
For: ADVANCED LOAD ADDRESS TABLE BUFFER

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This paper provides the decision on the petition filed April 2, 2007, under 37 C.F.R. § 1.181 and M.P.E.P. § 706.07 to withdraw the finality of the Office action, mailed February 2, 2007.

The Petition is **DISMISSED.**

Applicable Prosecution History

October 27, 2006	Non-Final (FAOM) action mailed.
November 30, 2006	Applicant replied to the First Office action. Amended claims 1, 4, 16, 20, 23, and 25.
February 2, 2007	Final Rejection mailed.
April 2, 2007	Amendment After Final filed. Also, Instant Petition filed.

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. Further, when a petition is

taken from an action or requirement of an examiner in the ex parte prosecution of an application, ... it may be required that there have been a proper request for reconsideration (37 CFR § 1.111) and a repeated action by the Examiner.

The petition filed on April 2, 2007 includes elements (1) and (2) above, as well as a request for reconsideration.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the office action mailed on February 2, 2007.

OPINION

Petitioner presents the following arguments in support of the position that the Final rejection was premature:

a) Examiner's states on page 7 paragraph 3 of the office action (Final Rejection) "applicant's arguments with respect to claim 10 have been considered but are moot in view of the new grounds of rejection using the same reference". Claim 10 was not amended by amendment filed on 11/30/2006. Parent claim 1 was amended. Claim 10 is not anticipated by the reference applied.

b) Examiner has failed to issue two actions on the merits, because in the first office action mailed on October 27, 2006, the examiner merely relied on citations of portions of the reference without indicating why the cited portions are relevant (for example with respect to claim 1, only citing column and line numbers of cited reference), and hence was not an action on the merits. Applicant cites

> MPEP §706: The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity;

and

> MPEP §706.02(j) that states "the examiner should set forth in the office action.... (C) the difference or differences in the claim over the applied reference(s).".

ANALYSIS

With respect to item (a) above, 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).

In the instant case, applicant amended the independent claim 1, but did not amend the dependent claim 10, which depended from claim 1. Examiner rejected claims 1 and 10 in the Final action mailed February 2, 2007, with the same sections of the reference as were cited in the rejection of these claims in the FAOM (non-final rejection) mailed on October 27, 2006. In the "response to arguments" section of the final rejection examiner states "applicant's arguments with respect to claim 10 have been considered but are moot in view of the new grounds of rejection using the same reference". But a complete review of the prosecution history reveals that the same sections of the reference have been used in both rejections, the non-final mailed on October 27, 2006, and Final mailed on February 2, 2007. Applicant had indicated on page 14 of the remarks filed on November 30, 2006, in response to the non-final action, that "advanced load pipeline" relied on by examiner could not be found in the cited section of the reference. The examiner, has attempted to explain the rejection further as requested by applicant. It should be noted however that the examiner also cited figures 9 and 10, and by applicant's own admission the advanced load pipeline is referenced by #440 of Figure 10 (refer page 15 of remarks filed on November 30, 2006). Accordingly, the examiner's statement regarding 'the new grounds of rejection' with respect to claim 10 is a misstatement which does not effect the validity of the finality of the last Office action.

With respect to item (b) above, MPEP §706 states: The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. A review of the file history reveals that the examiner has articulated his rejection of claims 1-23 and 25-30, under 35 USC 102(b) as being anticipated by Arora et al. (U.S. Patent No. 6,658,559), and claim 24 under 35 USC 103(a) as being obvious over the same reference.

Applicant is also directed to the following section in MPEP §706, which states in part:

<u>37 CFR .104. Nature of examination.</u>

(c) Rejection of claims.

.....

(2) In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

As can be seen from the above cited sections of the MPEP, "the particular part relied on must be designated as nearly as practicable to" by the examiner. The examiner has pointed out "the particular part". The pertinence of each reference must be explained, **<u>if not apparent</u>**. In the current instance, the claims are rejected as being anticipated by a single reference.

With respect to applicants' argument regarding MPEP §706.02(j) that states "the examiner should set forth in the office action.... (C) the difference or differences in the claim over the applied reference(s).", it is noted that this applies only to a rejection under 35 USC 103(a). In the instant application, this argument would apply only to claim 24, as that is the only claim rejected under 35 USC 103(a). Examiner clearly points out

(Refer Non-Final office action mailed on 10/27/2006), what is not taught by the cited reference:

Claim 24
The rejection of claim 23 is incorporated but Arora does not specifically disclose:
An audio device. However, it is common in the art for a computer system to have an audio device.

The petition is **DISMISSED**.

The application remains under final rejection with the time period for response continuing to run from the mailing of the Final Office action, February 2, 2007.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software,
and Information Security

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/114,758	04/25/2005	3723	500	NMCIP033D1	2	3	1

CONFIRMATION NO. 2599

CORRECTED FILING RECEIPT

OC000000016475301

022434
BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 07/08/2005

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)

Yuji Horie, Tokyo, JAPAN;
Hiromitsu Okuyama, Tokyo, JAPAN;
Naoyuki Hamada, Tokyo, JAPAN;

Assignment For Published Patent Application

Nihon Microcoating Co., Ltd.

Power of Attorney: The patent practitioners associated with Customer Number **022434**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/272,666 10/15/2002

Foreign Applications

JAPAN 2001-138972 05/09/2001
JAPAN PCT/JP02/01930 03/01/2002

If Required, Foreign Filing License Granted: 06/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/114,758

Projected Publication Date: 10/13/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Foamed polishing sheet

Preliminary Class

451

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FEB 28 2008

OFFICE OF PETITIONS

PETERS VERNY , L.L.P.
425 SHERMAN AVENUE, SUITE 230
PALO ALTO CA 94306

In re Application of	:	
WENZEL, Deborah	:	
Application No. 11/114,794	:	DECISION ON PETITION
Filed: April 26, 2005	:	TO WITHDRAW
Attorney Docket No. **3596.02-4(HMP)**	:	FROM RECORD
	:	

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 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 Howard M. Peters on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Deborah Wenzel 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: **DEBORAH WENZEL, PRESIDENT**
SAGA FUEL SYSTEMS, INC.
3145 GEARY BOULEVARD, SUITE 270
SAN FRANCISCO, CA 94118

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OFFICE OF PETITIONS

BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET, SUITE 500
AKRON OH 44311

In re Application of :

MARTIN, David A. :
Application No. 11/114,805 : DECISION ON PETITION
Filed: April 26, 2005 : TO WITHDRAW
Attorney Docket No. **30236.26160** : FROM RECORD

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 Barnes on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 4, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID A. MARTIN**
35521 QUARTERMANE CIRCLE
BENTLEYVILLE, OH 44139

cc: **EMERSON, THOMSON & BENNETT**
777 WEST MARKET STREET
AKRON, OHIO 44303

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/28/2010

Applicant	: Aurelie Gervais	: DECISION ON REQUEST FOR
Patent Number	: 7634289	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/114,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of	:	
Giambattista ZAMBELLI, et al	:	
Application No. 11/114,816	:	ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 86491/153	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 17, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3711 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.

April Wise
Petitions Examiner
Office of Petitions

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LAW OFFICES OF ROY ANDERSON
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GLENDALE CA 91208

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OFFICE OF PETITIONS

In re Application of :
Wang :
Application No. 11/114,825 : ON PETITION
Filed: April 25, 2005 :
Attorney Docket No. RLA35.233 :
For: GAZEBOS WITH DECORATIVE
POSTS HAVING REPLACEABLE TOPS

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2006 (certificate of mailing date April 3, 2006), to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application action mailed May 24, 2005, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 25, 2005. A Notice of Abandonment was mailed on February 1, 2006.

Petitioner has submitted filing fees, an executed declaration, and a surcharge in reply to the May 24, 2005 Notice, an acceptable statement of the unintentional nature of the delay in responding to the May 24, 2005 Notice, and the required petition fee.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy