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MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE IL 60532

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Jerry A.Long :
Application No. 11/130,854 : ON PETITION
Filed: May 16, 2005 :
Attorney Docket No. A4-300-US :

This is a decision on the petition, filed August 21, 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The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination).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 3, 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 2839 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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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) :Jerry A. Long
Application No. :11/130,854
Filed :May 16, 2005

The above-identified application has been assigned Patent No. 7,094,096 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It is hereby directed that this application be withdrawn from issue at the request of the applicant.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. 7,094,096 to Jerry A. Long of Illinois for DUAL STACKED CONNECTOR appearing in the Official Gazette of August 22, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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OFFICE OF PETITIONS

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

In re Application of
El-Bakry, Faber, Roque, and Schreck
Application No.: 11/130,866
Filed: May 18, 2005
Attorney Docket No:32860-000889/US
For: METHOD FOR IMAGE CONVERSION

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed November 15, 2005.

The petition is **GRANTED**.

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

The above-cited application was filed on May 18, 2005, without a proper oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 15, 2005, requiring a properly executed oath or declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed responsively on November 15, 2005, with a request fro an extension of time within the third month.

Petitioner has shown that inventor El-Bakry 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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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
11/130,867	05/16/2005	3747	565	15471-004001	31	13	2

CONFIRMATION NO. 4465

CORRECTED FILING RECEIPT

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000017548629

Date Mailed: 11/30/2005

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

Applicant(s)

Mohammad Moktader, West Springfield, MA;
Zahir Adil, Burlington, MA;

Power of Attorney:

Robert Hillman--22837
Timothy French--30175
David Feigenbaum--30378
John Hayden--37640

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/130,867

Projected Publication Date: 11/16/2006

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Inducing air

Preliminary Class

123

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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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Fish & Richardson, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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JUL 16 2008

In re Application of :
Mohammad Moktader et al. :
Application No. 11/130,867 : DECISION ON PETITION
Filed: May 15, 2005 : TO WITHDRAW
Attorney Docket No. 15471-004001 : 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 June 10, 2008.

The request is **APPROVED**.

A review of the file record indicates that David L. Feigenbaum of the firm Fish & Richardson, P.C.: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 34313 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 power of attorney filed on November 18, 2005 was improperly accepted by the Office. Compliance with 37 CFR 3.73(b) has not been satisfied. If assignee desires to intervene in this application then a statement under 37 CFR 3.73(b) must be submitted.

The correspondence address has been changed to the first named inventor and is copied below.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mohammed Moktader
645 Westfield Street, #2
Springfield, MA 01089

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/130,867	05/16/2005	Mohammad Moktader	15471-004001

CONFIRMATION NO. 4465

POWER OF ATTORNEY NOTICE

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000031005948

Date Mailed: 07/16/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/10/2008.

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

/kainabinet/

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

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LEXINGTON KY 40550-0999

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OFFICE OF PETITIONS

In re Application of	:	
Goffinet et al.	:	
Application No. 11/130,869	:	DECISION ON PETITION
Filed: May 17, 2005	:	
Attorney Docket No. 2004-0510.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed May 1, 2008, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on November 4, 2008. A Notice of Abandonment was mailed December 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

Further, petitioner has requested an additional three-month extension of time with the instant petition. However, this request is not accepted since petitioner has already purchased the maximum extendable period of three months earlier on November 3, 2008.

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

This application is being referred to Technology Center AU 3621 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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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 :
Keith WIATER :
Application No. 11/130,875 : DECISION ON PETITION
Filed: May 17, 2005 : TO WITHDRAW
Attorney Docket No. 48863-9 : FROM RECORD
:

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 28, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Ruden, McClosky, Smith, Schuster & Russell, P.A., has been revoked by the applicant of the patent application on June 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: WILLIAM R. TRUEBA, JR.
KLUGAR, PERETZ, KAPLAN & PERLIN, P.L.
201 S. BISCAYNE BOULEVARD, SUITE 1700
MIAMI, FL 33131

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/130,875	05/17/2005	Keith Wiater	48863-9

CONFIRMATION NO. 3763

POA ACCEPTANCE LETTER

WILLIAM R. TRUEBA, JR.,
KLUGAR, PERETZ, KAPLAN & BERLIN, P.L.
201 S. BISCAYNE BOULEVARD
SUITE 1700
MIAMI, FL 33131

OC000000030265561

Date Mailed: 06/03/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2007.

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

/dcgoodwyn/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/130,875	05/17/2005	Keith Wiater	48863-9

CONFIRMATION NO. 3763

POWER OF ATTORNEY NOTICE

43463
RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE
SUITE 800
WEST PALM BEACH, FL 33401-6112

Date Mailed: 06/03/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2007.

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

/dcgoodwyn/

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

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KEATY PROFESSIONAL LAW CORPORATION
THOMAS S. KEATY
2 CANAL STREET
2140 WORLD TRADE CENTER
NEW ORLEANS, LA 70130

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :
DOWELL, Alwyn :
Application No. 11/130,899 : DECISION ON PETITION
Filed: May 17, 2005 : TO WITHDRAW
Attorney Docket No. **D05-2067** : FROM RECORD

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 18, 2007.

The request is **APPROVED**.

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

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

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

There is an outstanding Office action mailed May 07, 2007 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MR. ALWYN DOWELL**
606 DINORAH COURT
HOUSTON, TX 77094

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/130,899	05/17/2005	Alwyn Dowell	D05-2067

CONFIRMATION NO. 4029

OC000000025065702

27257
KEATY PROFESSIONAL LAW CORPORATION
THOMAS S. KEATY
2 CANAL STREET
2140 WORLD TRADE CENTER
NEW ORLEANS, LA 70130

Date Mailed: 07/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/18/2007.

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

Michelle R. Eason

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

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CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Hosoe et al.	:	
Application No. 11/130,936	:	ON PETITION
Filed: May 16, 2005	:	
Attorney Docket No. KOT-0153	:	

This is a decision on the petition filed July 19, 2005, requesting that the above-identified application be accorded a filing date of May 16, 2005, rather than the presently accorded date of May 17, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

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 May 16, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 529016399 US showing a handwritten "date-in" of "May 17, 2005." The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated May 16, 2005 on the cover page for the application papers. Additionally, applicant has submitted a copy of the Track & Confirm record showing that the package in question was enroute on May 16, 2005, at 11:21 p.m. in Hartford, CT.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on May 16, 2005. Accordingly, the instant application is entitled to a filing date of May 16, 2005 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been charged.

This matter is being referred **to the Office of Initial Patent Examination Division for further processing with a filing date of May 16, 2005, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 1700 for examination in due course.

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

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

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Young Law Firm, P.C.
4370 Alpine Road, Suite 106
Portola Valley CA 94028

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DEC 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Jean-Marie Gatto et al. :
Application No. 11/130,937 : DECISION ON PETITION
Filed: May 16, 2005 :
Attorney Docket No. **CYBS5872D3** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 18, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

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RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE
SUITE 800
WEST PALM BEACH FL 33401-6112

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
WIATER, Keith :
Application No. 11/130,938 : DECISION ON PETITION
Filed: May 17, 2005 : TO WITHDRAW
Attorney Docket No. **48863-0010** : FROM RECORD

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 28, 2007.

The request is **APPROVED**.

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

The request was signed by Stanley A. Kim, on behalf of all attorneys of record who are associated with customer No. 43463. 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 Keith Wiater at the address indicated below.

There is an outstanding Office action mailed March 21, 2007 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KEITH WIATER**
BAGS TO GO, INC.
200 TERMINAL DRIVE, BOX #7
FT. LAUDERDALE, FL 33315

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
11/130,938	05/17/2005	Keith Wiater	48863-0010

CONFIRMATION NO. 4355

OC000000024505640

43463
RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE
SUITE 800
WEST PALM BEACH, FL 33401-6112

Date Mailed: 06/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/28/2007.

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

Michelle R. Eason

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

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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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OCT 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Daryl W. Hochman	:	
Application No. 11/130,945	:	DECISION ON PETITION
Filed: May 17, 2005	:	TO WITHDRAW
Attorney Docket No. 026700-000310US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2008.

The request is **APPROVED**.

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

The request was signed by Mark H. Hopkins, Ph.D on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Daryl W. Hochman**
9803 Colt Drive
Bahama, NC 25703

cc: **Hunton & Williams LLP**
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/130,945	05/17/2005	Daryl W. Hochman	026700-000310US

CONFIRMATION NO. 5798

POWER OF ATTORNEY NOTICE

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

OC000000032814713

Date Mailed: 10/27/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/22/2008.

- 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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INTELLECTUAL PROPERTY DEPT.
DEWITT ROSS & STEVENS SC
2 EAST MIFFLIN STREET
SUITE 600
MADISON WI 53703-2865

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JAN 07 2009

In re Application of	:	
Jamieson A. Foght	:	
Application No. 11/130,969	:	DECISION ON PETITION
Filed: May 17, 2005	:	
Attorney Docket No. 77858.003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed July 12, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 13, 2007. A Notice of Abandonment was mailed February 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

The file is now being forwarded to Technology Center 3611 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ATTN : JOSEPH BENNETT-PARIS
MERCHANT & GOULD, P.C.
P.O. BOX 2093
MINNEAPOLIS MN 55402-0903

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FEB 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Robert LANZA et al :
Application No. 11/130,979 : ON PETITION
Filed: May 17, 2005 :
Attorney Docket No. 103080-P03-021 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 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 final Office action mailed April 14, 2008, which set a shortened statutory period for reply of three (3) months. A three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the fee of $810.00; (2) the petition fee of $1620.00; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

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

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

The application file is being forwarded to Technology Center 1600.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON, MASSACHUSETTS 02110

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/130,982	05/16/2005	Stephen Gold	200402800-2	4297

7590 04/15/2008

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

EXAMINER	
BARRON JR, GILBERTO	

ART UNIT	PAPER NUMBER
2132	

NOTIFICATION DATE	DELIVERY MODE
04/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY
05/19/2005 CNGUYEN 00000019 082025 11130982
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR

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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of :
Gonda et al. :
Application No. 11/130,986 :
Filed: May 17, 2005 : ON PETITION
Attorney Dckt No: 6809.240-US :

This is a decision on the Petition, filed August 8, 2005, requesting the above-identified application be accorded a filing date of May 17, 2005, including 9 sheets of drawings and an executed declaration/power of attorney.

The application was filed on May 17, 2005. On July 15, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had NOT been accorded a filing date because the application had been deposited without drawings. The Notice also required a newly executed oath or declaration to be filed with the drawings.

Applicant responds with the instant petition wherein Applicant avers that 9 sheets of drawings described in the specification were filed with the application on May 17, 2005, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 9 sheets of drawingsin the above-identified application by this Office on May 17, 2005.

A review of the return-receipt postcards reveal that Applicant is correct. The postcards acknowledges receipt of, *inter alia*, 9 sheets of drawings in the above-identified application by this Office on May 17, 2005.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

Applicant has also resubmitted 9 sheets of drawings and a copy of the executed oath/declaration[1]. The copy of 9 sheets of drawings filed with the instant petition on August 8, 2005, will be used for examination purposes.

The petition fee, $400.00, has been refunded to deposit account 50-0562 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 17, 2005, and an indication that 9 sheets of drawings were present on filing, using the 9 sheets of drawings filed with the instant petition on August 8, 2005.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] Because the drawings were present on filing of the application, a newly executed oath/declaration is not required.

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WARN, HOFFMANN, MILLER & LALONE, .P.C
PO BOX 70098
ROCHESTER, HILLS MI 48307

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
Romas and Susca :
Application No.: 11/130,998 : ON PETITION
Filed: May 17, 2005 :
Attorney Docket No: SCH-00107 :
For: EXTERIOR REARVIEW MIRROR FOR VEHICLES, IN PARTICULAR MORTOR VEHICLES

This is a decision on the petition under 37 CFR 1.47(a) filed August 26, 2005 (certificate of mailing dated August 24, 2005).

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-cited application was filed on Nay 17, 2005, without a properly executed declaration. On June 24, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a declaration signed by all named inventors and a surcharge of $130.00 for the late filing of the declaration. On August 26, 2005, the instant petition was filed.

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

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

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

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), petitioner has not established that the non-signing inventor cannot be reached. Petitioner has only indicated that a copy of the application papers and declaration was sent to the last known addresses of the non-signing inventor and returned because inventor Susca no longer lived there. If petitioner is arguing that the non-signing inventor is unavailable to join the prosecution of the application, section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) explains that:

> [w]here inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts, which are relied on to establish that a diligent effort was made.

It cannot be concluded that petitioner made a 'diligent' effort to locate the non-signing inventor given the evidence presented. It is only clear that the application papers were sent to the last known address of the non-signing inventor; this, without more, does not amount to diligence in locating the non-signing inventor. Section 409.03(d) further explains that the aforementioned statement " . . . must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence, such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement." In this case, petitioner should, at least, provide some evidence that the non-signing inventor has received the application papers, i.e., a certified mail return receipt, or that other efforts were made to locate the non-signing inventor to no avail.

The fee for the instant petition is $200.00, as authorized by 37 CFR 1.17(g). Deposit account 50-1916 will be charged an additional $70.00, accordingly.

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

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PO BOX 70098
ROCHESTER HILLS MI 48307

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JAN 1 1 2006

OFFICE OF PETITIONS

In re Application of
Romas and Susca
Application No.: 11/130,998
Filed: May 17, 2005
Attorney Docket No:SCH-00107
For: **EXTERIOR REARVIEW MIRROR FOR VEHICLES, IN PARTICULAR MOTOR VEHICLES**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 27, 2005 (certificate of mailing dated December 22, 2 005.)

The renewed 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 May 17, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing parts of Nonprovisional Application" (the "Notice") was mailed on June 24, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(a) was filed on August 26, 2005. The petition was dismissed by a decision mailed September 23, 2005. The instant renewed petition was filed on December 27, 2005, with a request for an extension of time within the first month.

Petitioner has shown that inventor Susca cannot be located to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be directed 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

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Ovidiu Catalin Susca
6552 40e Avenue
H1T 2W1
Montreal, Canada

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of
Romas and Susca
Application No.: 11/130,998
Filed: May 17, 2005
Attorney Docket No:SCH-00107
For: **EXTERIOR REARVIEW MIRROR FOR VEHICLES, IN PARTICULAR MOTOR VEHICLES**

: LETTER

Dear Mr. Susca:

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

WARN, HOFFMANN, MILLER & LALONE, .P.C
PO BOX 70098
ROCHESTER HILLS, MI 48307

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LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

Mail Date: 04/30/2010

Applicant	: Arup Bhattacharyya	: DECISION ON REQUEST FOR
Patent Number	: 7612403	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/131,006	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **772** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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DEC 22 2008

In re Application of :
Steven Kenneth Wright : DECISION ON PETITION
Application No. 11/131,016 :
Filed: May 17, 2005 :
Atty Docket No. TXBIN-001A :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed July 16, 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 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed October 5, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply was received and no extension of time was obtained. The application became abandoned on January 6, 2008. A courtesy Notice of Abandonment was mailed on May 16, 2008.

The instant petition was filed by inventor Wright, and included payment of the petition fee and a reply prepared by attorney Buyan. However, the petition, including the required statement of unintentional delay, was unsigned. This is unacceptable.

As required by 37 CFR 1.33(b), amendments and other papers. Amendments and other papers, except for written assertions

pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

In addition, 37 CFR 1.137(b) requires a signed statement of unintentional delay.

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

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO (EFS-Web).

Telephone inquiries specific to this matter 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.

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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JAN 13 2009

OFFICE OF PETITIONS

In re Application of :
Steven Kenneth Wright : DECISION ON PETITION
Application No. 11/131,016 :
Filed: May 17, 2005 :
Atty Docket No. TXBIN-001A :

This is a decision on the Renewed Petition Under 37 C.F.R. § 1.137(b) filed January 7, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned effective January 6, 2008 for failure to file a reply to the non-final Office action mailed October 5, 2007. A courtesy Notice of Abandonment was mailed on May 16, 2008. By decision mailed December 22, 2008, the initial PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed July 16, 2008 was dismissed. The petition, including the required statement of unintentional delay, was unsigned.

On instant renewed petition, petitioner has resubmitted the petition executed by sole inventor Wright. The requirements of 37 CFR 1.137(b) have been met. The petition includes the statement of unintentional delay. The required reply in the form of an amendment and payment of the petition fee were previously filed on July 16, 2008. No terminal disclaimer is required for revival of this application.

Technology Center AU 3711 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed July 16, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/21/2010

Applicant	: Vijay Sen	: DECISION ON REQUEST FOR
Patent Number	: 7574459	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/131,035	05/16/2005	1653	1200	P1920R1D1	5	20	4

CONFIRMATION NO. 3949

09157
GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

UPDATED FILING RECEIPT

OC000000017298924

Date Mailed: 10/20/2005

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

Applicant(s)

John C. Joly, San Mateo, CA;

Assignment For Published Patent Application

Genentech, Inc., South San Francisco, CA

Power of Attorney: The patent practitioners associated with Customer Number **09157**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/243,789 09/12/2002 PAT 6,921,659
which claims benefit of 60/322,350 09/13/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/131,035

Projected Publication Date: 01/26/2006

Non-Publication Request: No

Early Publication Request: No

Title

Aminopeptidase

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Rajiv Ramaswami	: DECISION ON REQUEST FOR
Patent Number	: 7606180	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **960** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of :
Kei-Yu Ko :
Application No. 11/131,070 : ON PETITION
Filed: July 7, 2005 :
Attorney Docket No. MI22-2894 :

This is a decision on the petition under 37 CFR 1.182, filed July 7, 2005, requesting that the Office accord the above-identified application the later filing date of July 7, 2005; the date applicant filed omitted page 9 of the specification with the USPTO.

On May 17, 2005, applicant deposited the above-identified application. However, on June 14, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of May 17, 2005, and advising applicant that page 9 of the specification appeared to have been omitted from the application.

In response, on July 7, 2005, applicant filed the present petition, an authorization to charge the $400.00 petition fee, an executed declaration and page 9 of the specification. Applicant requested that the Office accord the above-identified application the later filing date of July 7, 2005; the date applicant filed omitted page 9 of the specification with the USPTO.

The petition is **granted**. The application will be accorded a filing date of July 7, 2005, with page 9 of the specification.

The Office of Initial Patent Examination is directed to **accord the application a filing date of July 7, 2005**, using the application papers submitted on May 17, 2005, and page 9 of the specification submitted on July 7, 2005. The Office is also directed to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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James Zeller
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

JAN 12 2006

In re Application of: Cha Doek Dong
Application No. 11/131,092
Filed: November 22, 2005
Attorney Docket No. 29936/41275

Decision on Petition

This is a decision on the petition filed under 37 C.F.R. § 1.181 and MPEP 1002.02 (c) 3 (a) on December 21, 2005 to withdraw the finality of previous office action.

The petition is GRANTED.

According to MPEP 706.07(a):

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

Applicant's amendment filed on October 31, 2005 in response to non-final office action introduced additional claim language limitation of "wherein the first oxide film is formed by oxidizing a surface of the first nitride film." into claim 1. Examiner in the Non-Final Office Action mailed July 27, 2005 previously rejected this limitation. Applicant merely amended the limitations of claim 4 into claim one, thus not presenting a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The finality of the final rejection mailed 11/22/05 is hereby withdrawn. The application file will be forwarded to the Technical Support Staff for Technology Center 2800 for further processing.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application of
Sehat Sutardja : DECISION ON APPLICATION
Application No. 11/131,106 : FOR PATENT TERM ADJUSTMENT
Filed: May 16, 2005 :
Attorney Docket No. MP0237.C1-13361-049002 :

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT PURSUANT TO COMMENT 43 OF THE FINAL RULE," filed August 1, 2006, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that additional applicant delay of one (1) day should have been accorded. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 1, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero (0) days.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of zero (0) days, reduced by applicant's delays of three (3) days, pursuant to 35

U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The adjustments have been reviewed and found to be correct.

However, a review of the file reveals that applicant should have been assessed additional delay of (1) day. The Office mailed a Notice of Allowance on November 2, 2005. Applicant did not file a proper reply until he filed an RCE on February 3, 2006. Accordingly, pursuant to 37 C.F.R. 1.704(b), applicant delay of one (1) day should have been assessed for this filing.

In addition, applicant points the Office's attention to the fact that he should have been assessed additional delay for a submission after the Notice of Allowance was mailed on May 1, 2006. While a review of the file indicates that Applicant did file a paper titled "MISCELLANEOUS CORRESPONDENCE" on June 5, 2006, the Office will not be able to assess the number of days of applicant delay associated with this filing until the issue date.

Lastly, it is noted that applicants filed a terminal disclaimer on October 17, 2005. The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 C.F.R. § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

In view of the above, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (0 days of PTO delay, reduced by 4 (3+1) days of Applicant delay).

No petition fee was required. The Office thanks Applicant for his good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

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

Enclosure: Copy of adjusted PAIR calculation

Day : Monday
Date: 10/2/2006

PALM INTRANET

Time: 09:38:43

PTA Calculations for Application: 11/131106			
Application Filing Date:	05/16/2005	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	10/02/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
58	05/01/2006	MAIL NOTICE OF ALLOWANCE			
57	04/29/2006	ISSUE REVISION COMPLETED			
56	04/29/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	04/26/2006	NOTICE OF ALLOWABILITY			
54	02/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	12/29/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	02/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	02/03/2006	REFERENCE CAPTURE ON IDS			
50	02/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	04/13/2006	DATE FORWARDED TO EXAMINER			
48	02/03/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	04/13/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	01/09/2006	MISCELLANEOUS INCOMING LETTER			
45	12/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	02/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	02/17/2006	WORKFLOW - QUERY REQUEST - FINISH			
42	02/10/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
41	02/07/2006	RESPONSE TO AMENDMENT UNDER RULE 312			

40	01/11/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
39	02/03/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	12/17/2005	PUBS CASE REMAND TO TC			
37	12/20/2005	WORKFLOW - QUERY REQUEST - BEGIN			
36	12/13/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	11/08/2005	EXPORT TO INITIAL DATA CAPTURE			
34	11/02/2005	MAIL NOTICE OF ALLOWANCE			
33	10/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	10/31/2005	ISSUE REVISION COMPLETED			
31	10/31/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	10/31/2005	NOTICE OF ALLOWABILITY			
29	10/27/2005	PARALEGAL TD ACCEPTED			
28	10/17/2005	TERMINAL DISCLAIMER FEE PAID			
27	10/17/2005	TERMINAL DISCLAIMER FILED			
26	10/17/2005	NEW OR ADDITIONAL DRAWING FILED			
25	10/24/2005	DATE FORWARDED TO EXAMINER			
24	10/17/2005	RESPONSE AFTER NON-FINAL ACTION		3	21
23	09/14/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	07/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	07/14/2005	MAIL NON-FINAL REJECTION			
20	07/11/2005	NON-FINAL REJECTION			
19	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	05/16/2005	REFERENCE CAPTURE ON IDS			
17	05/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/27/2005	TRANSFER INQUIRY TO GAU			
15	06/17/2005	APPLICATION RETURN FROM OIPE			
14	06/17/2005	APPLICATION IS NOW COMPLETE			
13	06/17/2005	APPLICATION RETURN TO OIPE			
12	06/16/2005	APPLICATION RETURN FROM OIPE			
11	06/17/2005	APPLICATION IS NOW COMPLETE			
10	06/16/2005	APPLICATION RETURN TO OIPE			
9	06/16/2005	APPLICATION RETURN FROM OIPE			

8	06/16/2005	APPLICATION IS NOW COMPLETE			
7	06/16/2005	APPLICATION RETURN TO OIPE			
6	06/16/2005	APPLICATION DISPATCHED FROM OIPE			
5	06/16/2005	APPLICATION IS NOW COMPLETE			
4	06/06/2005	CLEARED BY L&R (LARS)			
3	06/03/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	05/30/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/16/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FEB 22 2007

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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of	:
Jonathan Tilly et al	:
Serial No.: 11/131,114	: PETITION DECISION
Filed: May 17, 2005	:
Attorney Docket No.: 51588.62054	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed January 16, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

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

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

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NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of :
WANG, Teng-Huei :
Application No. 11/131,127 : DECISION ON PETITION
Filed: May 17, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 930074-2082 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 8, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the declaration of inventor Teng-Huei Wang, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

KIRSCHSTEIN, OTTINGER, ISRAEL
& SCHIFFMILLER, P.C.
425 FIFTH AVENUE
5TH FLOOR
NEW YORK NY 10016-2223

OCT 2 2 2008

In re Application of :
TAN, CHINH et al. :
Application No. 11/131,139 :
Filed: April 25, 2006 :
Attorney Docket No. CFP-018574 (20060397.ORI) :

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Notice Of Abandonment received in the United States Patent and Trademark Office (USPTO) on October 3, 2008.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed May 14, 2008, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on September 8, 2008.

Petitioner states that the Applicants responded by timely paying the Issue Fee on August 13, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquires concerning this decision be directed to the undersigned at 703-305-9250 x 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-20-10

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 11131177 Patent No.: 7011458

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: The Request for Certificate of Correction is for the purpose of correcting either clerical nature or typographical nature or a mistake of minor character. It does not involve changes which would constitute new matter or require reexamination.

/UYEN-CHAU LE/ 2874
SPE **Art Unit**

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD, SUITE 200
VIENNA, VA 22182-3817

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of :
ZHANG, Xin :
Application No. 11/131,186 : DECISION GRANTING PETITION
Filed: May 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **PHCF-05025** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 11. 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 19, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2821 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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SEP 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Seiichi Matsushima et al :
Application No. 11/131,235 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 123958

This is a decision on the petition, filed September 5, 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 10, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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SUITE 400
WASHINGTON, DC 20036

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Toshihiko Kasai et al :
Application No. 11/131,245 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 101216-00010

This is a decision on the petition, filed March 27, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 13, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
Kenji Nakanura, et al. :
Application No. 11/131,279 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No.: 015282-067 :

This is a decision on the petition, filed September 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 August 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries 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.

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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DAVID W. HIGHET, VP & CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
(ALSTON & BIRD LLP)
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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APR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Pitner et al.	:	
Application Number: 11/131283	:	DECISION GRANTING PETITION
Filing Date: 05/18/2005	:	
Attorney Docket Number:	:	
035510/325479 (P-6685)	:	

This is a decision on in reference to the "PETITION TO CHANGE INVENTOR NAME UNDER 37 C.F.R. § 1.182," filed on August 27, 2007.

The petition is **GRANTED**.

The name of the fourth inventor will be changed from "K. Joseph Thomas" to -**Joseph Thomas**--.

Petitioner has presented a certified copy of a court order for name change, as well as an affidavit signed by the fourth inventor in his new name.

Receipt of the court order reflecting the inventor's current name is acknowledged. The inventor's name has been corrected in Office records. A corrected Filing Receipt is enclosed for petitioner's records.

Petitioner is reminded that the fee for a petition under 37 CFR 1.182 is $400.00. The balance due of $270.00 will be charged to counsel's deposit account.

Receipt of the Application Data Sheet (ADS) filed with the subject petition is acknowledged.

The application is being referred to the Technology Center 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

Encl: 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
11/131,283	05/18/2005	1624	2400	035510/325479 (P-6685)	43	3

CONFIRMATION NO. 4775

CORRECTED FILING RECEIPT

47656
David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Alston & Bird LLP)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07417-1880

OC000000029329070

Date Mailed: 04/10/2008

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)

J. Bruce Pitner, Durham, NC;
Douglas B. Sherman, Durham, NC;
Arounaguiry Ambroise, Morrisville, NC;
Joseph Thomas, Raleigh, NC;

Assignment For Published Patent Application

Becton, Dickinson and Company

Power of Attorney: The patent practitioners associated with Customer Number 47656

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/573,944 05/21/2004
and claims benefit of 60/599,514 08/06/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/131,283**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Long wavelength thiol-reactive fluorophores

Preliminary Class

544

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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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :

Hisn-Tien Yao, et al :
Application No. 11/131,293 : DECISION ON PETITION
Filed: May 18, 2005 : TO WITHDRAW
Attorney Docket No. 8220.036 : 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 January 05 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak attorney/agent of record on behalf of himself.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Thomas P. Liniak
Liniak, Berenato & White
6550 Rock Spring Drive, Ste. 240
Bethesda, MD 20817

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Crowell & Moring LLP
Intellectual Property Group
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Washington, D.C. 20044-4300

In re Application of : DECISION ON THE PETITION
Rudolf Ehrmaier : UNDER 37 CFR 1.144
Application No. 11/131,308 :
Filed: May 18, 2005 :
For: ROLLING AWAY PROTECTION AFTER ENGINE SWITCH OFF AND SECURITY DEVICE

This is a decision on applicant's petition on the propriety of the restriction/election under 37 CFR 1.144, filed in the United States Patent and Trademark Office, on September 21, 2007.

The petition is **DENIED**.

BACKGROUND

A thorough review of the file reveals that a restriction under MPEP § 806.05 Process and Apparatus for its Practice - was mailed to applicant on April 20, 2007.

I. Claims 1-6, drawn to "a procedure for preventing a motor vehicle from moving after the engine is turned off", classified in class 701, subclass 54.
II. Claims 7-11, drawn to "safety equipment to prevent a motor vehicle from moving after the engine is turned off", classified in class 701, subclass 76.

Applicant on April 20. 2007 elected with traverse to prosecute claims 7-11 drawn to the apparatus.

The non-Final Office action of July 02, 2007 addressed applicant's traversal of the restriction/election and withdrew claims 1-6 being non-elected with traverse. In replying to the traversal of the restriction/election requirement the examiner stated:

> Applicant's election with traverse of claims 7-11 in the reply filed on 4/20/07 is acknowledged. The traversal is on the ground(s) that the classification is incorrect and the requirement for election merely conclusory. This is not found persuasive because class 701, subclass 76 relates to independent claim 7 due to the recitation of stopping and vehicle speed in conjunction with the previous recitation of an automatic transmission and selection of the Park position (i.e., acceleration/deceleration). In fact, with claims as broad as these a greater number of search areas usually need to be sometimes reviewed because of the subtlety of the claimed invention, and the general nature of patent related prior art.
>
> The requirement is still deemed proper and is therefore made FINAL.

PETITION

Applicant's petition states the following: (1) The Restriction Requirement is improper because the subject matter classification provided in the Restriction Requirement is arbitrary, there is no serious burden on the Examiner to consider all of the claims together, (2) The classification of the claims of group II was arbitrary, and (3) The reasoning to support the restriction requirement is conclusory, and not supported by sufficient evidence.

DISCUSSION

Applicant's arguments are not persuasive.

MPEP § 806.05(e) Process and Apparatus for Its Practice

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

MPEP § 808.02 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.

Regarding statement (1):

Invention I and invention II are deemed to be properly separable. Applicant argues that the inventions should be classifiable together and that no burden is on the examiner. The examiner has correctly, and in compliance with MPEP 806.05(e), set forth separate classification. Note that the classification set forth by the examiner is merely one of many class/subclasses that the invention my be classified in. The examiner is not required to set forth all possible classifications. In regard to this 701/45 and 701/62 also apply as well as class 340. MPEP § 808.02 sets forth that one of three criteria may be met: (1) separate classification, (2) separate status in the art when classifiable together and, (3) different field of search. Clearly separate classification exists between the process and apparatus, MPEP § 806.05(e).

With regards to statement (2):

Review of the restriction requirement between invention I and invention II is not found to be arbitrary. As set forth more fully above, MPEP § 808.02 sets forth that one of three criteria may be met: (1) separate classification, (2) separate status in the art when classifiable together and, (3) different field of search. Clearly separate classification exists between the process and apparatus, MPEP § 806.05(e).

Regarding statement (3):

Reading applicant's statement that the reasoning to support the restriction requirement is conclusory, and not supported by sufficient evidence, MPEP § 806.05(e) sets forth that the process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

The examiner set forth the following rationale.

> Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the procedure or method of group I can be practiced by a materially different apparatus, or by hand as someone operates and turns off a motor vehicle.

Clearly the process as claimed can be practiced by another and materially different apparatus or by hand. Safety equipment to prevent a motor vehicle from moving after the engine is turned off can be a known theft deterrent system such as the auto club which attached the steering wheel of the vehicle. Also, the system can be used to practice another and materially different process, such as in a vehicle employing a manual transmission. The process preventing the manual transmission from being placed in gear.

Additionally note that applicant's claims as presently presented are not linked nor has applicant set forth that inventions I or II are not distinct. Linking claims would be rejoined while admission of the inventions not being distinct would have negated the restriction requirement.

For the foregoing reasons, the examiner's restriction/election requirement was clearly proper.

The application is being forwarded to the examiner for consideration of the amendment filed January 18, 2008. An appropriate Office response will follow in due course.

SUMMARY: The petition is **DENIED**.

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

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

jwk/tl: 02/12/08

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of:
LEE, JI-WON, et al.
Application Serial No.: 11/131,321
Filed: May 18, 2005
For: **ELECTRON EMISSION DISPLAY (EED) WITH DECREASED SIGNAL DISTORTION AND METHOD OF DRIVING EED**

DECISION ON PETITION

This is a decision on the petition, under 37 C.F.R. §1.181, filed on August 7, 2008 requesting the withdrawal of the requirement to label Figures 1-3 as "Prior Art".

The petition is **GRANTED**.

A review of the record indicates that Figures 1-3 as originally filed did not indicate that the figures were prior art. Hence, in keeping with the disclosure and applicant's arguments, the requirement to label these figures as "Prior Art" is withdrawn.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

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

Mail Date: 05/04/2010

Applicant	: Minoru Yoshida	: DECISION ON REQUEST FOR
Patent Number	: 7646477	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/131,379	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **655** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

Mail Date: 04/21/2010

Applicant	: Makoto Koizumi	: DECISION ON REQUEST FOR
Patent Number	: 7651999	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,412	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1235** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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URBAIN ALFRED VON DER EMBSE
7323 W. 85TH ST
WESTCHESTER, CA 90045-2444

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Urbain A. von der **Embse** :
Application No. 11/131,464 : DECISION ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. N/A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 07, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 14, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 15, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the payment of $350.00 required in reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) paid on October 16, 2006; (2) the petition fee of $770.00 and (3) a statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) of April 07, 2008 is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark office is relying on petitioner's duty of candor and good faith and accepting the statement that entire delay in filing the required reply from the due date of the reply for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Office at 88 and 103 (responses to comments 64 and 109 (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the patent and Trademark Office)).

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 the OIPE for appropriate action in the normal course of business on the reply received.

David A. Bucci
Petitions Examiner
Office of Petitions

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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

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SEP 2 4 2008

In re Application of :
Alan L. Browne, et. al. :
Application No. 11/131,491 : DECISION ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. GP-305997-RD-KAM :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of November 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

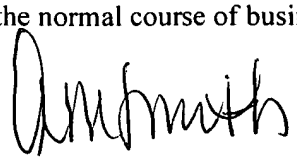
There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Christopher W. Quinn appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. 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 will be mailed to the address on the petition.

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.

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

This application is being referred to Technology Center AU 3782 for appropriate action by the Examiner in the normal course of business on the reply received.



Andrea Smith
Petitions Examiner
Office of Petitions

cc: Christopher W. Quinn
Quinn Law Group, PLLC
39555 Orchard Hill Place, Ste. 520
Novi, MI 48375

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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In re Application of :
Lee D. Tice :
Application No. 11/131,499 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. H0009461 :
8364/94113(1600)

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

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Paul M. Vargo appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 1, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 2008. A Notice of Abandonment was mailed October 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center 2612 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/30/09

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11131510 Patent No.: 7439263 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

/Joseph K. McKane/ 1626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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KONDZELLA AND CYR
PONDVIEW PLAZA, SUITE 114
5850 POUS PARKWAY
MINNETONKA, MN 55343

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard DeFino	:	
Application No. 11/131,513	:	DECISION ON PETITION
Filed: May 17, 2005	:	TO WITHDRAW
Attorney Docket No. 9227-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 April 3, 2006.

The request is **APPROVED**.

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

The request was signed by Philip Furgang on behalf of all attorneys/agents of record who are associated with customer No. 021494.

All attorneys/agents associated with customer No. 021494 have been withdrawn.

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

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

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

This application is being referred to Technology Center AU 3623.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: RICHARD DEFINO
4 WOODLOT ROAD, APT. 4
EASTCHESTER, NY 10709

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Jordi A. Albornoz	: DECISION ON REQUEST FOR
Patent Number	: 7636883	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **836** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Chris Jolley	: DECISION ON REQUEST FOR
Patent Number	: 7614039	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,578	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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OCT 10 2006

OFFICE OF PETITIONS

Yi-Wen Tseng
4331Stevens Battle Lane
Fairfax, VA 22033

In re Application of	:	
Reay-Young, et al.	:	DECISION GRANTING PETITION
Application No. 11/131,603	:	UNDER 37 CFR 1.137(b)
Filed: May 17, 2005	:	
Atty. Dkt. No.: AT-14	:	

This decision is in response to the petition under 37 CFR 1.137(b), filed July 10, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the Notice mailed August 18, 2005. The Notice set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed April 21, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Mark A. Litman & Associates, P.A.
Suite 205
York Business Center
3209 West 76th St.
Edina, MN 55435

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of Foss :
Application No. 11/131,606 : Decision on Petition
Filing Date: May 18, 2005 :
Attorney Docket No. 058.004US1 :

This is a decision on the petition under 37 CFR 1.183 filed May 8, 2006.

The petition is **dismissed as moot**.

The petition seeks to have the examiner fully consider the evidence filed in support of a declaration under 37 CFR 1.131.

On August 14, 2006, about three months after the petition was filed, the Office mailed a non-final Office action. The Office action states in part,

> Receipt is acknowledged of the Amendment filed on July 3, 2006. The declaration filed under 37 CFR 1.131 is accepted and fully considered.

A decision on the merits of the petition no longer appears necessary. Therefore, the petition has been dismissed as moot.

The normal petition fee for a petition under 37 CFR 1.183 is $400. However, considering the facts and circumstances, a petition fee has not been charged to petitioner's deposit account.

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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BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM NY 11580-6111

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OFFICE OF PETITIONS

In re Application of	:	
David S. Breed	:	
Application No. 11/131,623	:	DECISION ON PETITION
Filed: May 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ATI-367	:	37 CFR 1.102(c)(1)
	:	

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

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's passport proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3616 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Gudas et at.	:	
Application No. 11/131648	:	ON APPLICATION
Filing or 371(c) Date: 05/17/2005	:	FOR
Attorney Docket Number: 511582008820	:	PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed March 27, 2009. The Application for Patent Term Adjustment is properly treated under 37 CFR 1.705(b).

The application was filed on May 17, 2005. On December 30, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On March 27, 2009, Applicants timely submitted the present request for review of patent term adjustment. Applicants do not dispute the adjustment to date of 218 days. Further, Applicants do not dispute the reductions to date totaling 244 days.

Instead, applicants submit that the correct patent term adjustment to be indicated on the patent is 360 days, not 0 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

Applicants request this correction based on the following two arguments: (1) that the application is entitled to an additional adjustment of 416 days because the Office will take in excess of three years to issue this patent and (2) on the basis that the Office neglected to assess a reduction of 30 days pursuant to 37 CFR 1.704(c)(8) in connection with the IDS filed December 17, 2008.

As to item (1) set forth above, insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years.

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent 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].

As to item (2), applicants also correctly note the delay of 30 days pursuant to 37 CFR 1.704(c)(8), for filing a Supplemental Information Disclosure Statement ("IDS") on December 17, 2008, after filing an Amendment in response to a final Office action on November 17, 2008. Applicant notes the period of delay pursuant to 37 CFR 1.704(c)(8), as the number of days beginning on the day after the date that the Amendment was filed, November 18, 2008, and ending on the day that the IDS was filed, December 17, 2008.

In view thereof, the request for correction of the reduction from 244 days to 274 days is GRANTED.

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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.

Accordingly, the correct patent term adjustment at the time of the mailing of the Notice of Allowance remains zero (0) days (adjustments totaling 218 days less reductions totaling 274 days). A copy of the updated PAIR screen, showing the correct determination, is enclosed.

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 Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Updated PAIR Screen

Day : Monday
Date: 8/31/2009

PALM INTRANET

Time: 10:19:28

PTA Calculations for Application: 11/131648			
Application Filing Date:	05/17/2005	PTO Delay (PTO):	218
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	244
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	08/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
63	12/30/2008	MAIL NOTICE OF ALLOWANCE			
62	12/24/2008	ISSUE REVISION COMPLETED			
61	12/24/2008	DOCUMENT VERIFICATION			
60	12/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	12/24/2008	EXAMINER'S AMENDMENT COMMUNICATION			
58	12/24/2008	NOTICE OF ALLOWABILITY			
57	12/17/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	12/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	12/10/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
48	11/21/2008	DATE FORWARDED TO EXAMINER			
47	11/17/2008	AMENDMENT AFTER FINAL REJECTION		31	43
46	11/17/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	05/29/2008	REFERENCE CAPTURE ON IDS			
44	05/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		69	36
43	07/17/2008	MAIL FINAL REJECTION (PTOL - 326)			
42	07/16/2008	FINAL REJECTION			
39	05/29/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	05/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	05/08/2008	DATE FORWARDED TO EXAMINER			

36	03/21/2008	RESPONSE AFTER NON-FINAL ACTION		91	33
35	03/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	04/14/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
33	09/21/2007	MAIL NON-FINAL REJECTION			
32	09/17/2007	NON-FINAL REJECTION			
31	06/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	05/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	03/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	07/14/2007	DATE FORWARDED TO EXAMINER			
25	07/12/2007	SUPPLEMENTAL RESPONSE		30	23
24	06/13/2007	DATE FORWARDED TO EXAMINER			
23	06/12/2007	RESPONSE TO ELECTION / RESTRICTION FILED		23	19
22	06/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	03/13/2007	REFERENCE CAPTURE ON IDS			
20.7	03/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	02/20/2007	MAIL RESTRICTION REQUIREMENT	218		-1
18	02/15/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
17	05/12/2006	REFERENCE CAPTURE ON IDS			
16.7	05/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	05/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	08/31/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	08/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
12.7	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/20/2005	PRELIMINARY AMENDMENT			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

10.7	07/28/2005	FILED			
10	07/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/29/2005	APPLICATION DISPATCHED FROM OIPE			
8	06/29/2005	APPLICATION IS NOW COMPLETE			
6	06/08/2005	CLEARED BY L&R (LARS)			
5	06/02/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	06/01/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/27/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/17/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	05/17/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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APR 13 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,595,379	:
Gudas et al.	: DECISION ON REQUEST
Issue Date: 09/29/2009	: FOR RECONSIDERATION OF
Application No. 11/131648	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 05/17/2005	: and
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
511582008820	: CERTIFICAE OF CORRECTION

This is a decision on the petition filed on November 25, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred twenty-four (324) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred twenty-four (324) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred twenty-four (324) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,595,379 B2

DATED : **September 29, 2009**

INVENTOR(S) : Gudas 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 106 days.

Delete the phrase "by 106 days" and insert – by 324 days--

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Philip P. Mathew	: DECISION ON REQUEST FOR
Patent Number	: 7577222	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,660	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of :
Peter L. Jensen et al. :
Application No. 11/131,661 : ON PETITION
Filed: May 17, 2005 :
Attorney Docket No. 333158-1301 :

This is a decision on the petition filed August 2, 2007 which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Non-final Office action mailed June 13, 2006. A response and three month extension of time was filed December 18, 2006. A notice of Non-Compliant Amendment noting improperly amended drawings was mailed January 3, 2007. This Notice gave a response time of one (1) month or 30 days. Another submission of corrected drawings was filed February 5, 2007 and a Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed July 30, 2007. This notice did not provide any additional response time, and no extension of time was filed under 37 CFR 1.136(a). Accordingly, by operation of law, the above-identified application became abandoned on February 6, 2007

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

1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

There is no statement of unintentional delay. The instant petition makes mention of "inadvertently abandoned" but such a statement does not meet the requirement for 37 CFR 1.137 (b)(3).

The fee for a petition under 37 CFR 1.137(b) for small entity is $770. The instant petition included a petition fee of $130. The balance of $640 is charged to petitioner's deposit account No. 19-0741 as authorized by William Benz.

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 Carl Friedman at (571) 272-6842.

for David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-24-10

Paper No.: _____

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/131,674 (Patent No.: 7594312)

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

FOR IFW FILES: Check Claims

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

Ennis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

/David P. Bryant/
SPE

3726
Art Unit

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LAW OFFICE OF DELIO & PETERSON, LLC.
121 WHITNEY AVENUE
3RD FLLOR
NEW HAVEN, CT 06510

Mail Date: 04/27/2010

Applicant	: Arnold Marcus	: DECISION ON REQUEST FOR
Patent Number	: 7594312	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/131,674	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1098** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/131,692	05/18/2005	Jungo Tsuji	351778.06410	5386

7590 08/25/2009

REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

EXAMINER	
OLANIRAN, FATIMAT O	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
08/25/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 08/27/2009 NFARMER
05/20/2005 FFANAEIA 00000019 502603 11131692
02 FC:1111 500.00 CR

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HONEYWELL/FOX ROTHSCHILD
Patent Services
101 Columbia Road
Morristown, NJ 07962

Mail Date: 04/20/2010

Applicant	: Brian L. Gibson	: DECISION ON REQUEST FOR
Patent Number	: 7659331	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,694	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **727** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Dean E. Myers	: DECISION ON REQUEST FOR
Patent Number	: 7613489	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1111** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 05/17/2010

Applicant : Dean E. Myers
Patent Number : 7613489
Issue Date : 11/03/2009
Application No: 11/131,698
Filed : 05/18/2005

: 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 **1145** 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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K.M. RYLANDER
TRIAL & PATENT ATTORNEY AT LAW PC
Suite 206
1014 Franklin Street
Vancouver, WA 98660

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OFFICE OF PETITIONS

In re Application of :
Brian Weltman :
Application No.: 11/131,731 : ON PETITION
Filed: May 17, 2005 :
Attorney Docket No:WEL B01 :

This is in response to the petition under 37 CFR 1.137(b) filed March 1, 2006.

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

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on March 15, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and $65.00 surcharge for the late filing of the same. A proper response was not received within the allowable period, and the application became abandoned on May 16, 2005. A Notice of Abandonment was mailed on February 21, 2006.

The declaration filed March 1, 2006, is noted and made of record.

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) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: James W. Holley JR.	: DECISION ON REQUEST FOR
Patent Number	: 7591273	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,753	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-20-07

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/131754 Patent No.: 7145319

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.

Should COC be approved

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

Certificates of Correction Branch

703-308-9390 ext. 117

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 proposed change to Fig. 3 appears to be new matter.

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2858
Art Unit

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of
John T. Chapman et al.
Application No. 11/131,766
Filed: May 17, 2005
Attorney Docket No. 2705-365

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed March 7, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of a prior-filed non-provisional application.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney 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 2616 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Charles Pearson
Director,
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/131,766	05/17/2005	2616	1500	2705-365	30	3

CONFIRMATION NO. 5521

20575
MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

CORRECTED FILING RECEIPT

OC000000023777372

OC000000023777372

Date Mailed: 05/09/2007

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)

John T. Chapman, Saratoga, CA;
Daniel W. Crocker, San Jose, CA;
Eric Youngman, San Jose, CA;
Alon S. Bernstein, Sunnyvale, CA;

Assignment For Published Patent Application

Cisco Technology, Inc., San Jose, CA

Power of Attorney: The patent practitioners associated with Customer Number **20575**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/574,506 05/25/2004
and claims benefit of 60/574,876 05/26/2004
and claims benefit of 60/622,312 10/25/2004
and claims benefit of 60/624,490 11/01/2004
and claims benefit of 60/635,995 12/13/2004
and claims benefit of 60/588,635 07/16/2004
and claims benefit of 60/582,732 06/22/2004
and claims benefit of 60/590,509 07/23/2004
and is a CIP of 09/894,958 06/27/2001 PAT 7,209,442

Foreign Applications

If Required, Foreign Filing License Granted: 06/23/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/131,766

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Upstream physical interface for modular cable modem termination system

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 06/30/2010

Applicant	: John T. Chapman	: DECISION ON REQUEST FOR
Patent Number	: 7639617	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/131,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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COMMISSIONER FOR PATENTS
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Paper No.

CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK NY 10038

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Yat To Chan :
Application No. 11/131,775 :
Filed: May 17, 2005 : DECISION ON PETITION
Attorney Docket Number: 15579 : UNDER 37 C.F.R. § 1.181(A)
(4814 JS) :
Title: ANTENNA DEVICE HAVING :
ROTATABLE STRUCTURE :

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 10, 2007.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 30, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 31, 2007. A notice of abandonment was mailed on November 13, 2007.

With the present petition, Petitioner has asserted that an amendment was filed in the Office on July 5, 2007, and has included a postcard receipt which evinces that an 'AMENDMENT AND REPLY w/MAILING CERTIFICATE" was received in the Office on July 5, 2007."

Petitioner has indicated that the submission was received by the Office, but was not matched with the correct application file, because he placed the wrong serial number on the submission - it bears the serial number 10/131,775. Petitioner is reminded that

errors such as occurred can result in loss of rights and care must be taken to avoid such.

It is clear that on July 5, 2007, Petitioner submitted a response to the non-final Office action of April 30, 2007, and this submission was associated with application number 10/131,775, per Petitioner's instructions.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The response to the non-final Office action will be been moved from the electronic file associated with 10/131,775, and placed into the electronic file associated with 11/131,775 in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the non-final Office action, submitted on July 5, 2007, can be processed.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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EVERMAN LAW FIRM, PA
9111 Woodhall Lake Drive
Waxhaw NC 28173

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Trevor P. Ashline :
Application No. 11/131,782 : ON PETITION
Filed: May 17, 2005 :
Attorney Docket No. **147E-0265CIP**

This is a decision on the petition under 37 CFR 1.137(b) filed April 1, 2010.

The petition is GRANTED.

This application became abandoned for failure to timely remit the issue fee of $755.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed November 16, 2009. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on February 17, 2010. A Notice of Abandonment was mailed on March 2, 2010.

The issue fee and publication fee were received on April 1, 2010.

The application file will be directed to the Office of Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ROBERT EDWARD PURVY
6384 DEVONSHIRE DR.
SAN JOSE, CA 95129

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
ASAI :
Application No. 11/131,788 : DECISION ON PETITION
Filed: May 18, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. ASAI-1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 18, 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 evidence submitted with the instant petition is a statement signed by Mr. Asai indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

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

The application is being forwarded to the Technology Center Art Unit 3732 for action on the merits commensurate with this decision.

Patricia Volpe
Petitions Examiner
Office of Petitions

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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Alexander T. Garthwaite	: DECISION ON REQUEST FOR
Patent Number	: 7650350	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1281** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 18 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Venkat Selvamanickam, et al.

Title: APPARATUS FOR CONSECUTIVE DEPOSITION OF HIGH-TEMPERATURE SUPERCONDUCTING (HTS) BUFFER LAYERS

App. No.: 11/131,834 Filed: May 18, 2005

Examiner: UNASSIGNED Group Art Unit: 1762

Atty. Dkt. No.: 1014-SP104-CONT

MS AMENDMENT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Sir:

In accordance with Rule 1.102 and MPEP § 708.02 IX entitled "Special Status for Patent Applications Relating to Superconductivity," applicants respectfully request that the above-identified application be accorded special status. The above-identified application contains inventions involving superconductive materials. Accordingly, advancement of the above-identified application is respectfully requested.

No PTO fees are required for consideration and granting of this petition, in accordance with MPEP § 708.02 IX.

Respectfully submitted,

8/18/05
Date

Jeffrey S. Abel, Reg. No. 36,079
Attorney for Applicant(s)
Toler, Larson & Abel, L.L.P.
5000 Plaza on the Lake, Suite 265
Austin, Texas 78746
(512) 327-5515(phone)
(512) 327-5452 (fax)

PETITION GRANTED

ss|01-30

Richard Crispino
Special Program Examiner
TC 1700 AUG 30 2005

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Commissioner for Patents
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Joseph S. Iandiorio
260 Bear Hill Road
Waltham, MA 02451-1018

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AUG 2 1 2008

In re Application of :
Frank Romano et al. :
Application No. 11/131,846 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. LOJACK-116J :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 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 August 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). A three month extension of time was obtained. Accordingly, the date of abandonment of this application is February 3, 2008. A Notice of Abandonment was mailed on March 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, (2) the petition fee of $1540, 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 2612 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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VIENNA, VA 22182-6212

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JUL 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Ted Gower	:	
Application No. 11/131,875	:	DECISION ON PETITION
Filed: May 17, 2005	:	TO WITHDRAW
Attorney Docket No. 088724.00003	:	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 May 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Squire, Sanders & Dempsey, LLP has been revoked by the assignee of the patent application on June 8, 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRUCE M. WILLIAMS
100 NE 8TH AVE. #408
GAINESVILLE, FL 32601

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OFFICE OF PETITIONS

In re Application of :
Bruce M. Williams :
Application No. 11/131,888 : DECISION ON PETITION
Filed: May 18, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1) AND
: 37 CFR 1.102(d)

This is a decision on the petitions under 37 CFR 1.102(c)(1) and 37 CFR 1.102(d), filed May 18, 2005 and supplemented on October 6, 2005, to make the above-identified applications special based on applicant's health and special status for patent applications relating to Bio-Technology as set forth in MPEP §§ 708.02, Section III and 708.02, Section XII.

The petition under 37 CFR 1.102(c)(1) is **DISMISSED**.

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 adequate evidence, as indicated in the MPEP § 708.02, Section III above, to support the petition. Applicant states he has been disabled from February 22nd, 1980 until present but such conditions do not appear life threatening at this time. With the evidence provided, it appears that the applicant will be available to assist in the prosecution of the application if it were to run its normal course.

The petition under 37 CFR 1.102(d) is **DISMISSED.**

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

(A) That small entity status has been established or include a statement establishing small entity status;

(B) That the subject of the patent application is a major asset of the small entity; and

(C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

To be granted special status, the application must be related to the field of Biotechnology.

The petitioner does not meet the above-listed requirements set forth in MPEP § 708.02, XII; therefore, 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 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 1632 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRUCE M. WILLIAMS
100 NE 8TH AVE. #408
GAINSVILLE, FL 32601

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DEC 11 2009

OFFICE OF PETITIONS

In re Application of
Bruce M. Williams
Application No. 11/131,888
Filed: May 18, 2005
Title: Use Of Stem Cells To Cure Genetic Diseases In Humans Cure For Sickle Cell Anemia

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a proper and timely manner to the Notice of Non-Compliant Amendment (Notice) mailed January 30, 2009 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 3, 2009. A Notice of Abandonment was mailed September 11, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (2).

With regards to item (2) petitioner has failed to submit the petition fee of $1,620.00 or small entity petition fee of $810.00.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. The petition in the above-identified application was not accompanied by payment of the required fee. **No consideration on the merits can be given to the petition until the required fee is received.**

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

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

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND OR 97205-3335

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NOV 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Kamio, Kunihiko	:	
Application No. 11/131,939	:	ON PETITION
Filed: May 17, 2005	:	
Attorney Docket No. ACO05313	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 18, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Burton Sage
2453 Impala Drive
Carlsbad, CA 92010

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AUG 27 2008

In re Application of :
Burton H. Sage et al. :
Application No. 11/131,942 : DECISION ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 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 non-final Office action mailed September 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 18, 2007. A Notice of Abandonment was mailed on April 17, 2008.

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

As to item (3) the statement of unintentional delay is presently not acceptable since it was not signed by all of the inventors. See 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

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

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

Mail Date: 04/21/2010

Applicant	: Wu Yang	: DECISION ON REQUEST FOR
Patent Number	: 7593328	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/131,966	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **899** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 29 2010

OFFICE OF PETITIONS

SENNIGER POWERS LLP (SMX)
100 NORTH BROADWAY
17TH FLOOR
ST. LOUIS MO 63102

In re Patent No. 7,614,429 : DECISION ON APPLICATION FOR
Issued: November 10, 2009 : PATENT TERM ADJUSTMENT and
Application No. 11/131,975 : NOTICE OF INTENT TO ISSUE
Filed: May 18, 2005 : CERTIFICATE OF CORRECTION
Dkt. No.: P2273US00(2006-053R1) :

This is a decision on the petition filed on January 11, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1,107 days.

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

Patentees contest the reduction of 43 days in connection with the September 29, 2009 submission. A review of the record concludes that the submission was at the request of the examiner. Accordingly, the 43 days has been restored.

Patentees further argue that the patent is entitled to additional adjustment pursuant to 37 CFR 1.702(b). However, patentees' own calculation differs from that of the Office.

The period of "A" delay is 660 days. The period of "B" delay is 541 days. The "B" delay commenced May 19, 2008 and ended November 10, 2009. The period of applicant delay totals 91 days. The period of "A" and "B" overlap totals two days (from July 28, 2009 to June 29, 2009 and not from June 27, 2009 to June 29, 2009 as set forth by patentees). Thus, the net adjustment totals 1,108 days and not 1,107.

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

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,108 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,614,429 B2

DATED : **November 10, 2009** **DRAFT**

INVENTOR(S) : Pluvinage, 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 526 days

Delete the phrase "by 526 days" and insert – by 1,108 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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SEP 12 2008

In re Application of	:	
Havelund et al.	:	
Application No. 11/131996	:	ON PETITION
Filing or 371(c) Date: 05/18/2005	:	
Attorney Docket Number:	:	
5386.234-US	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed May 9, 2008.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 2, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that Applicant has filed (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The petition fee and fee for filing the Notice of Appeal have been charged to Applicant's deposit account as authorized in the petition and Notice of Appeal. It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (on the day after the reply was due). No extensions of time are available. The application is abandoned and must be revived. Petitioner may request a refund of the extension fee by writing to the Office of Finance, Refund Section, Director for Patents, PO Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application is being referred to Technology Center Art Unit 1654 to await the brief in support of appeal.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief. Extensions of time are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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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SEP 0 7 2006

OFFICE OF PETITIONS

In re Application of :

Cathie J. Burke :
Application No. 11/132,000 : DECISION ON PETITION
Filed: May 18, 2005 : TO WITHDRAW
Attorney Docket No. A3619-US-NP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 16, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 28211. 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, 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 Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Harold W. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7590404	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,003	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SENNIGER POWERS LLP (MSFT)
100 NORTH BROADWAY
17TH FLOOR
ST. LOUIS MO 63102

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
Zhang et al. :
Application No. 11/132,008 : ON APPLICATION FOR
Filed: 05/18/2005 : PATENT TERM ADJUSTMENT
Atty Docket No. MS#312246.01 (5192):

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705 filed January 7, 2009. Applicant requests that the determination of patent term adjustment be corrected from 585 days to 776 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 three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without

payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e), 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

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond WA 98052

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,506,274	:	
Zhang et al.	:	DECISION ON REQUEST FOR
Issue Date: March 17, 2009	:	RECONSIDERATION OF
Application No. 11/132,008	:	PATENT TERM ADJUSTMENT
Filed: May 18, 2005	:	
Atty Docket No. MS#312246.01 (5192)	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705", filed May 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred eighty-eight (585) days to eight hundred eighty-nine (889) days.

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

On March 17, 2009, the above-identified application matured into US Patent No. 7,506,274 with a patent term adjustment of 585 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Specifically, patentees assert:

> Based upon a review of the Patent Application Information Retrieval (PAIR) database regarding the subject application, it appears that the Office did not add the Period B delay of three hundred and four (304) days to the total Office delay, presumably assuming this Period B

> delay to overlap with the Period A delay. However, according to the recent decision of Wyeth v. Dudas, 88 U.S.P.Q. 2d, 1538 (D.D.C. 2008), the Office's Period B delay does not overlap with the Office's Period A delay, because the Period B delay does not occur within the period of three years after the filing of the application in which the Period A delay occurred. Accordingly, the Office's determination of its own delay of three-hundred forty-six (587) days is inaccurate, falling short by three hundred and four (304) days.

Petition pp. 1-2.

Initially, the Office notes that patentees incorrectly calculated the period of adjustment under 37 CFR 1.702(b) as 304 days. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 303 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), May 19, 2005, and ending on the date the patent was issued, March 17, 2009. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

Patentees contends that in addition to this 303-day period,[1] 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). A nonfinal Office action was mailed on September 25, 2008, 14 months and 587 days after the application was filed on May 18, 2005.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed

[1] In this decision, the Office will use the correct period of adjustment under 37 CFR 1.702(b) of 303 days (instead of 304 days as indicated by patentees in the instant request).

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 2 days for applicant delay.

Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay and the period of Examination Delay (587 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 890 days, which is the sum of the period of Three Year Delay (303 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 888 days (303 + 587 reduced by 0 overlap - 2 (applicant delay)).

The Office maintains that as of the issuance of the patent on March 17, 2009, the application was pending three years and 303 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 587 days is proper. At issue is whether patentees should accrue 303 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 587 days for Office failure to take a certain action within a specified time frame (or examination delay).

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

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant

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

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

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

[2] 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

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 from the date of filing the application on May 18, 2005, to the date the patent issued on March 17, 2009. 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. All of the 303 days for Office delay in issuing the patent overlap with the 587 days of examination delay accorded pursuant to 37 CFR 1.702(a)(1) during the pendency of the application. Thus, 587 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 303 days over three years to the issuance of the patent. As 587 days had already been accorded, 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. The revised determination of patent term adjustment at the time of the issuance of the patent will remain 585 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e) on January 7, 2009. No additional fees are required.

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).

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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OFFICE OF PETITIONS

In re Application of :
Vierling et al. :
Application No. 11/132021 :
Filing or 371(c) Date: 05/18/2005 : ON PETITION
Attorney Docket Number: :
2005P07974US; 60426-723 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 12, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on December 13, 2006. A Notice of Abandonment was mailed March 30, 2007.

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

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

The application is being referred to Technology Center Art Unit 3747 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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ROBERT A. KENT
P.O. BOX 1431
DUNCAN, OK 73536

Mail Date: 04/20/2010

Applicant	: Billy W. McDaniel	: DECISION ON REQUEST FOR
Patent Number	: 7595281	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,022	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **715** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Jeff Johnson
2807 Oregon Court Bldg. D1
Torrance, CA 90503

In re Application of :
Jeff Johnson et al. :
Application No. 11/132,035 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. A490U-JN :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 26, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is February 27, 2008. A Notice of Abandonment was mailed on August 8, 2008.

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

As to item 1, the amendment filed on May 22, 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.

As to item (3) the statement of unintentional delay is presently not acceptable since the petition was not signed by all of the inventors. See 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under §3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

It should also be noted that the power of attorney submitted with this petition is not acceptable since it was not signed by all of the inventors.

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 May 22, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

cc: Nander Hamda
2255 Jefferson Street
Torrance, CA 90501

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/132,035	**Applicant(s)** JOHNSON ET AL.	
	Examiner Alyssa M. Hylinski	**Art Unit** 3711	

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

THE REPLY FILED 22 May 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: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The claims require the new limitations of the turtle housing including a tail and at least three light emitting members.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments with regard to Lipman, Kosoff and Roy are unpersuasive and the references would be useable in a rejection of new claim 26.

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Lewis, Brisbois, Bisgaard & Smith, LLP
221 North Figueroa Street
Suite 1200
Los Angeles, CA 90014

In re Application of :
Jeff Johnson :
Application No. 11/132,035 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. A490U-JN :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 26, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is February 27, 2008. A Notice of Abandonment was mailed on August 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 August 12, 2009, dismissed the petition filed May 22, 2009 for failure to provide a terminal disclaimer and a proper statement of unintentional delay. The renewed petition includes a proper terminal disclaimer and statement of unintentional delay.

The renewed petition authorizes a payment of any additional fees that are due. An RCE fee in the amount of $405.00 will be charged to Deposit Account 50-3725.

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

This application is being referred to Technology Center AU 3711 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

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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
11/132,035	05/19/2005	Jeff Johnson	A490U-JN

CONFIRMATION NO. 6091

33417
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221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CA 90012

POA ACCEPTANCE LETTER

OC000000038494054

Date Mailed: 10/27/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2009.

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

/kainabinet/

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

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

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Cho, Kyu-Woong	:	
Application No. 11/132,036	:	ON PETITION
Filed: May 18, 2005	:	
Attorney Docket No. 54983/DBP/Y35	:	

This is a decision on the petition filed July 29, 2005, requesting that the above-identified application be accorded a filing date of May 18, 2005, rather than the presently accorded date of May 17, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 18, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 327926428 US showing an incorrect handwritten "date-in" of "May 17, 2005." The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Applicant has also submitted a copy of the Pick Up Service Statement, showing the date of pickup as "May 18, 2005," which includes Express Mail label No. EV 327926428 US. Additionally, applicant has submitted the USPS Track & Confirm record showing that the package in question was accepted on May 18, 2005, at 7:21 p.m. at the Pasadena, CA USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on May 18, 2005. Accordingly, the instant application is entitled to a filing date of May 18, 2005, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been charged.

This matter is being referred to Technology Center 1700 for examination in due course.

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

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

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JJGJR.: 02-06

Paper No: __

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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FEB 2 2 2006

OFFICE OF PETITIONS

In re Application of
Galun, et al. :
Application No. 11/132,037 :
Filing Date: 17 May, 2005 :
Attorney Docket No. 63427-CIP (52398) :

This is a decision on the petition filed on 30 September,2005, under 37 C.F.R. §1.181, and in light of the allegations also is considered under 37 C.F.R. §1.182.

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

BACKGROUND

Petitioner alleges that:

- he filed an application on behalf of the Applicants on 17 May, 2005:

> ... mistakenly [with] an incorrect claim set with the application. This incorrect claim set included a total of seventy-nine claims. Of these claims, three were independent claims (claims 1, 41, and 66) and two were multiple dependent claims (claims 33 and 79).
>
> * * *
>
> [Petitioner found that a charge of $17,310.00 to his deposit account] was based on the total of $15,950.00 in excess claim fees,

> $360.00 for the multiple dependent claim fee, and $1[,]000.00 representing the basic search[ ] and examination fees.

- the filing receipt received from the Office confirmed Petitioner's belief of the foregoing;

- after receiving the filing receipt, Petitioner:

> ... timely filed a Preliminary Amendment on [19 July, 2005] to cancel all pending claims and replace them with a new correct claim set of seventy-nine claims. Of these new claims, five are independent claims (claims 80, 112, 120, 45[] and 158). There are no multiple dependent claims in the new correct claim set.
>
> * * *
>
> [Petitioner] believe[s] that the excess claim fee for the new correct claim set is $3[,]350.00

- Petitioner's 19 July, 2005, request for a refund of $12,960.00–the differential between the $17,310.00 charged and $3,350.00 Petitioner avers to be "the excess claim fee for the new correct claim set"–was denied on $14 September, 2005;

- Petitioner filed the instant request on 30 September, 2005.

Petitioner further alleges that there are no fees associated with the instant petition. Petitioner is referred to the provisions of 37 C.F.R. §1.181[1] and §1.182.[2]

---

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

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

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

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

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

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

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

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

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

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective

Petitioner alleges that his 19 July, 2005, request for a refund was "timely" and that the refusal of the Office to grant and Petitioner's "inability to obtain a refund of the $12,960.00 represents a financial burden" on the Petitioner.

Petitioner states that he:

> ... never contended that the mistake of filing the incorrect claim set was the fault of the USPTO. On the contrary, the inclusion of the incorrect claim set with the remainder of the application and filing papers on [17 May, 2005] was a mistake [of Petitioner] because the incorrect claim act (sic) and correct claim set were misidentified based at least in part on the fact that each included seventy-nine claims.

ANALYSIS

A review of the file indicates that the instant application was deposited on 17 May, 2005 and at that time was styled as a "CIP" (Continuation in Part), claiming priority to the prior-filed Application No. PCT/IL2003/000997. On filing, the application set forth 79 numbered claims in 8 pages, however, it also contained multiple dependent claims (e.g., Claims 33 and 79).

At the time the instant matter was filed, Congress directed and 35 U.S.C. §41 provided that:

* * *

(a) The Director shall charge the following fees:

(1)(A) On filing each application for an original patent * * *.

(B) In addition, on filing or on presentation at any other time, $200 for each claim in independent form which is in excess of 3, $50 for each claim (whether independent or dependent) which is in excess of 20, and $360 for each application containing a multiple dependent claim. (Emphasis supplied.)

* * *

Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

[2] The regulations at 37 C.F.R. §1.182 provide:

§ 1.182 Questions not specifically provided for.

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

The Congressional statutory statement of the timing and structure of fees is a mandate, not a suggestion.[3]

Similarly the regulations at 37 C.F.R. §1.22 provided, inter alia:

> **§ 1.22 Fees payable in advance.**
> (a) Patent fees and charges payable to the United States Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable with the exception that under § 1.53 applications for patent may be assigned a filing date without payment of the basic filing fee.
> * * *

Notably, the discussion of the charge of fees is set forth in the commentary at MPEP §601.01 states:

> * * *
> When filing a nonprovisional application, a basic fee entitles applicant to present 20 claims including not more than 3 claims in independent form. If claims in excess of the above are included at the time of filing, an additional fee is required for each independent claim in excess of three, and a fee is required for each claim in excess of 20 claims (whether independent or dependent). Fees for a proper multiple dependent claim are calculated based on the number of claims to which the multiple dependent claim refers, 37 C.F.R. §1.75(c), and a separate fee is required in each application containing a proper multiple dependent claim. For an improper multiple dependent claim, the fee charged is that charged for a single dependent claim. (Emphasis supplied.)
> * * *

Petitioner, as one registered to practice before the office, is not unfamiliar with the statutory provisions, the regulations and the commentary cited above.

CONCLUSION

Petitioner has failed to carry his burden herein.

Therefore, the petition is **dismissed**.

---

[3] "Shall" is the language of command. *Escoe v. Zerbst*, 295 U.S. 490, 55 S.Ct. 818, 79 L.Ed. 1566 (1935); *Boyden v. Commissioner of Patents*, 441 F. 2d 1041 (Ct. App. DC Cir. 1971).

The application is released to OIPE to for processing consistent with this decision before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/132,037	05/17/2005	Ehud Galun	63427-CIP(52398)

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

DATE MAILED: November 16, 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 9, 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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STEPHEN E. FELDMAN, P.C.
12 EAST 41ST STREET
NEW YORK, NY 10017

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Sampaio, Andre	:	
Application No. 11/132,038	:	DECISION ON PETITION
Filed: May 18, 2005	:	
Title: ADJUSTABLE SHOWER CADDY	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 3637 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

Mail Date: 06/21/2010

Applicant	: Michael D. Chambers	: DECISION ON REQUEST FOR
Patent Number	: 7636425	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/132,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/16/10

TO SPE OF : ART UNIT 3732 Cris Rodriguez (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/132057 Patent No.: 7472708

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 – 9D40-A
Palm Location 7580

H. Rly
Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Cris L Rodriguez
SPE

3732
Art Unit

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Keith Saft	: DECISION ON REQUEST FOR
Patent Number	: 7587671	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **532** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH NY 10510-9227

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SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Gerder et al. :
Application No. 11/132074 :
Filing or 371(c) Date: 05/18/2005 : ON PETITION
Attorney Docket Number: 71729 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 4, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 13, 2007. A Notice of Abandonment was mailed August 3, 2007.

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

The application is being referred to Technology Center Art Unit 1775 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant has also filed a Terminal Disclaimer ("TD"); however, Applicant is advised that a TD is no longer a requirement for a grantable petition in utility applications filed on or after June 8, 1995. See, 37 CFR 1.137(b).

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BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P.O. BOX 368
RIDGEFIELD, CT 06877-0368

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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
Ingo Konetzki et al :
Application No. 11/132,075 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 01-1417-1-C1

This is a decision on the petition, filed April 14, 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 February 25, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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Oppedahl Patent Law Firm, LLC
P.O. Box 4850
Frisco, CO 80443-4850

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of
Khai Gan Ghuah
Application No. 11/132,079
Filed: May 18, 2005
Attorney Docket No. HUAH P-001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Carl Oppendahl on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Khai Gan Chuah
Etadel Inc.
P.O. Box 90116
Austin, TX 78709

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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
11/132,079	05/18/2005	Khai Gan Chuah	HUAH P-001

CONFIRMATION NO. 5899

POWER OF ATTORNEY NOTICE

57380
Oppedahl Patent Law Firm LLC
P.O. BOX 4850
FRISCO, CO 80443-4850

OC00000035120417

Date Mailed: 03/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2009.

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

/kainabinet/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 5, 2009

TO SPE OF : ART UNIT 2891
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/132096 Patent No.: 7405453

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 **Art Unit**

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LEGAL DEPARTMENT
LUBRIZOL ADVANCED MATERIALS, INC
9911 BRECKSVILLE ROAD
CLEVELAND OH 44141-3247

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
TAMARESELVY :
Application No. 11/132,107 :
Filed: May 18, 2005 :
Attorney Docket No. 201CT036C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned July 6, 2008 for failure to timely submit an appeal brief in response to the Notice of Appeal filed May 5, 2008. Notice of abandonment was mailed December 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/333,941.

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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: TRAVERSO,RICHARD,
Millen White Zelano and Branigan PC
2200 Clarendon Blvd Ste 1400
Arlington, VA 22201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LEWIS GERBER
4921 SW 33rd Terrace
Fort Lauderdale FL 33312-7933

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JUN 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Lewis Gerber	:	
Application No. 11/132,122	:	DECISION ON PETITION
Filed: May 17, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. N/A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 24, 2006 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's passport proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2836 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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LOS ALAMOS NATIONAL SECURITY, LLC
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PPO. BOX 1663, LC/IP, MS A187
LOS ALAMOS NM 87545

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OFFICE OF PETITIONS

In re Patent No. 7,018,792 :
Issue Date: March 28, 2006 :
Application No. 11/132,130 : ON PETITION
Filed: May 17, 2005 :
Attorney Docket No. S-104,933 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 17, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(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

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) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
Antony **Brydon** et al. :
Application No. 11/132,159 : DECISION ON PETITION
Filed: May 17, 2005 :
Attorney Docket No. PA4039US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 03, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-Final Office action mailed May, 30 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 31, 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, and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 2169 for appropriate action by the Examiner in the normal course of business on the reply received

for David A. Bucci
Petitions Examiner
Office of Petitions

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BOULDER CO 80301

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OFFICE OF PETITIONS

In re Patent No. 7,517,994
Issued: April 14, 2009
Application No. 11/132,164
Filed: May 18, 2005
Dkt. No.: 100-14-CIP1

: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed April 16, 2009.

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

The above-identified application matured into U.S. Pat. No. 7,517,994 on April 14, 2009. The patent issued with a PTA of 502 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). The application requests that the patent term adjustment be increased from 502 days to 727 days.

Patentees request reconsideration of the patent term adjustment in view of the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert entitlement to an additional adjustment of 225 days pursuant to 37 CFR 1.702(b). Patentees assert that the correct adjustment is 727 days based on 507 days under 37 CFR 1.702(a) + 331 days under 37 CFR 1.702(b) – 106 days of overlap – 5 days of applicant delay.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

At the time of issuance of the patent, the application was pending three years and 331 days. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 507 days is correct. At issue is whether patentees should accrue an additional 331 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 507 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 331 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 507 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, May 18, 2005, to the date the patent issued on April 14, 2009. Prior to the issuance of the patent, 507 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 331 days for Office delay in issuing the patent overlap with the 507 days of Office examination delay. The Office did not delay 507 days and also delay an additional 331 days. Accordingly, as the 331 days attributable to the delay in the issuance of the patent overlaps

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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).

with the adjustment of 507 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. 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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BOSTON, MA 02210-2206

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of

Orrie Friedman, et al.
Application No. 11/132,170
Filed: May 17, 2005
Attorney Docket No. G0706.70007US01

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 August 6, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant Orrie Friedman. 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 1617 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Orrie Friedman	: DECISION ON REQUEST FOR
Patent Number	: 7595308	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,170	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **367** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DLA Piper Rudnick Gray Cary US LLP
1200 Nineteenth Street, N.W.
Washington DC 20036-2412

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JUL 2 8 2005

Technology Center 2100

In re Application of:
Robert WEATHERSBY, et al.
Application No. 11/132,207
Filed: May 19, 2005
For: INTERNET-BASED SYSTEM FOR DYNAMICALLY CREATING AND DELIVERING CUSTOMIZED CONTENT WITHIN REMOTE WEB PAGES

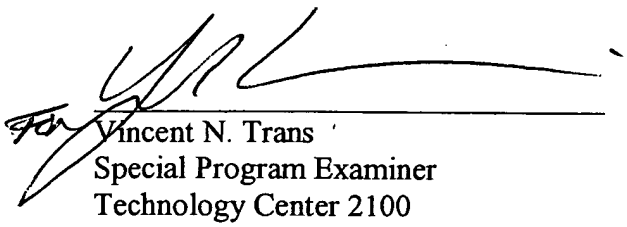
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed July 26, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the U.S. Patent and Trademark Office (Office) will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.



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

cc: Mr. Sam Winebaum
eFavorites Inc.
72A Congress Street
Portsmouth, NH 03801-6682

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5205 LEESBURG PIKE
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OFFICE OF PETITIONS

In re Application of	:	
Hu et al.	:	
Application No. 11/132,216	:	DECISION ON PETITION
Filed: May 19, 2005	:	
Attorney Docket No. BHT-3111-633	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed August 23, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on November 24, 2007. A Notice of Abandonment was mailed March 19, 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 $510.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

On October 14, 2008, petitioner also submitted a Request for Continued Examination with an Amendment after Final.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,730.00, four month extension of time fee submitted on October 14, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

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

The file is now being forwarded to Technology Center 3736 for processing of the Request for Continued Examination under 37 CFR 1.114 filed on October 14, 2008.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Troxell Law Office, PLLC
5205 Leesburg Pike, Ste. 1404
Falls Church, VA 22041

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
Ming-Jye Tsai et al. :
Application No. 11/132,220 : DECISION ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. BHT-3111-627 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 5, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Since the response due date fell on November 5, 2006, which was a Sunday, the reply could have been filed on the next succeeding business day of Monday, November 6, 2006. As no response was received, the application became abandoned on November 7, 2006. A Notice of Abandonment was mailed on May 3, 2007.

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

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

This application is being referred to Technology Center AU 3663 for appropriate action by the Examiner in the normal course of business on the reply received October 31, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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NEW YORK NY 10112

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JAN 23 2009

OFFICE OF PETITIONS

In re Application of :
Sakamoto et al. :
Application No. 11/132,222 : DECISION ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. 03594.001000.2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed February 12, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 13, 2008. A Notice of Abandonment was mailed October 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

Additionally, the request for the change in power of attorney has been accepted and the Notice enclosed. Further, the request for change of correspondence address has been accepted.

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

The file is now being forwarded to Technology Center 1792 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/132,222	05/19/2005	Hitoshi Sakamoto	5485-0102PUS2

CONFIRMATION NO. 6438

5514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

POA ACCEPTANCE LETTER

OC000000034139246

Date Mailed: 01/21/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/24/2008.

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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KILE GOEKJIAN REED & MCMANUS
1200 NEW HAMPSHIRE AVE, NW
SUITE 570
WASHINGTON DC 20036

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of :
OTTOMANELLI, Frank :
Application No. 11/132,238 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. **307.002** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 05, 2005 and March 12, 2007.

The request is **APPROVED**.

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

The request was signed by Scott Houtteman on behalf of all attorneys of record who are associated with customer No. 30236. 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 Frank Ottomanelli at the address indicated below.

There is an outstanding Office action mailed March 09, 2007 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FRANK OTTOMANELLI**
61-05 WOODSIDE AVENUE
WOODSIDE, NY 11377

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 26, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/132243 Patent No.: 7142329 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

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: All changes have been reviewed and should be made. No new matter is introduced and claim are not effected.

SPE — Art Unit 2625

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KEVIN P. MURPHY
OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE, SUITE 1600
MONTREAL, QUEBEC, CANADA H3A 2Y3

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NOV 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,231,714 :
Issue Date: June 19, 2007 :
Application No. 11/132,249 : NOTICE
Filed: May 19, 2005 :
Attorney Docket No. 10326-77US KPM/EN

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**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JUL 15 2005

LITMAN LAW OFFICES, LTD.
PO BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

In re application of Richard L. Kocsis Application No. 11/132,256 Filed: May 19, 2005 For: PORTABLE PICNIC TABLE/SAWHORSE	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on May 19, 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. Kocsis indicating that he is at least 65 years of age.

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

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

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

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

RAR/dew: 07/11/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070416

DATE : April 16, 2007

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 7,148,076

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:

MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Matthew Smith **Art Unit** 2818

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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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FEB 0 9 2006

OFFICE OF PETITIONS

Applicant: Ni et al.
Appl. No.: 11/132,285
Filing Date: May 19, 2005
Title: HUMAN TUMOR NECROSIS FACTOR RECEPTORS TR13 AND TR14
Attorney Docket No.: PF511P1D1
Pub. No.: US 2005/0244876 A1
Pub. Date: November 3, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on December 22, 2005, for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, because the sequence listing submitted with the application as filed is missing from the publication.

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

The instant request does not identify a material mistake in the publication made by the Office: The error is not a material mistake because the application is a Continuation of U.S. Application No. 10/046,433, which is both patented and published as a pre-grant publication, and which is incorporated by reference. Since, the parent application is now patented and published, and contains the information printed correctly, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

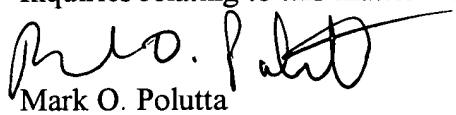
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



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

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of
CARDIN, Alan D.
Application No. 11/132,317
Filed: May 19, 2005
Attorney Docket No. **CELS-0004-UT1**

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 17, 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 Steven Kelber on behalf of all attorneys of record who are associated with customer No. 22506. Steven Kelber 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
Paralegal Specialist
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	: Won-Kyu Kwak	: DECISION ON REQUEST FOR
Patent Number	: 7586254	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,349	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1147** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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MAY 22 2008

In re Application of :
Kevin A. Jarrell, et al. :
Application No. 11/132,356 : DECISION GRANTING PETITION
Filed: May 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2003320-0042 :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed May 21, 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 7, 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 regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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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Stanley P. Fisher
Reed Smith Hazel & Thomas LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042-4503

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Patent No. 7,202,539 :
Issue Date: 04/10/2007 :
Application No. 11/132,373 : ON PETITION
Filed: 05/19/2005 :
Attorney Docket No. TSUT.0088 :

This is a decision on the petition filed May 18, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Matsushima et al. :
Application No. 11/132387 :
Filing or 371(c) Date: 05/19/2005 :
Attorney Docket Number: :
123987 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment, filed March 14, 2007. The petition is properly treated under 37 C.F.R. 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed November 2, 2006. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on February 3, 2007. A Notice of Abandonment was mailed March 6, 2007.

Applicant files the instant petition and asserts that a timely reply to the Notice was filed, on December 4, 2006, and received by this Office as evidenced by the copy of Applicant's "PTO Receipt for Filing of Papers". In support of this assertion, Applicant files a copy of the Reply and a copy of his PTO Receipt for Filing of Papers, which includes a date-stamp from this Office acknowledging receipt by this Office of a letter to the Official Draftsperson and a replacement drawing sheet (Fig. 3) by this Office on December 4, 2006.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Publishing Division for processing into a patent.

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

Derek L. Woods
Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Yuji Kobayashi	: DECISION ON REQUEST FOR
Patent Number	: 7569403	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,397	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of	:
Steiner et al.	: DECISION ON PETITION
Application No. 11/132,425	: UNDER 37 CFR 1.78(a)(3) and
Filed: 19 May, 2005	: 37 CFR 1.78(a)(6)
Attorney Docket No. P-2769-US14	:

This is a decision on the petition filed on 15 February, 2006, which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently-filed amendment filed on March 16, 2005.

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 information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment 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).

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

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

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

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

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

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

Frances Hicks
Lead Paralegal
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

PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

COPY MAILED

SEP 13 2006

OFFICE OF PETITIONS

In re Application of :
Steiner et al. :
Application No. 11/132,425 : DECISION ON PETITIONS
Filed: 19 May, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. P-2769-US14 :

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on 22 June, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed preliminary amendment.

The petitions are **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1614 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/132,425	05/19/2005	1614	1130	P-2769-US14	6	8	2

CONFIRMATION NO. 5745

49443
PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

CORRECTED FILING RECEIPT

OC000000020380380

Date Mailed: 09/11/2006

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)

Mitchell S. Steiner, Germantown, TN;
Sharan Raghow, Collierville, TN;

Power of Attorney: The patent practitioners associated with Customer Number **49443**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/611,056 07/02/2003
which is a CIP of 09/707,766 11/08/2000 PAT 6,632,447
which is a CIP of 09/531,472 03/20/2000 PAT 6,413,533
which is a CIP of 09/436,208 11/08/1999 ABN
which is a CIP of 09/306,958 05/07/1999 PAT 6,265,448
which claims benefit of 60/084,602 05/07/1998
This application 11/132,425
is a CIP of 10/300,939 11/21/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/23/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/132,425

Projected Publication Date: 12/21/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method for treatment and chemoprevention of prostate cancer

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).

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Paper No.

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

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DEC 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,510,035	:	
Irikura et al.	:	DECISION ON REQUEST
Issue Date: March 31, 2009	:	FOR
Application No. 11/132,440	:	RECONSIDERATION OF
Filed: May 19, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0666.2490000/	:	
ALF/AFK	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(d)," filed April 3, 2009. Patentees assert that the patent term adjustment indicated on the patent should be corrected from four hundred sixty-nine (469) days to seven hundred eighty-five (785) days

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

On March 31, 2009, the above-identified application matured into U.S. Patent No. 7,510,035, with a revised Patent Term Adjustment of 469 days. The instant request for reconsideration filed April 3, 2009 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment of 316 days should have been entered for the Office taking in excess of three years to issue the patent. Implicit in this assertion is an argument that the 316 days do not overlap with any of the days accorded for Office delay during the pendency of the application.

Patentees' argument has been considered, but not found persuasive. Pursuant to 35 U.S.C. 154(b) and implementing regulation 37 CFR 1.702(b), the patent term is to be adjusted for failure to issue a patent within three years of the actual

filing date of the application.[1] In this instance, the patent issued three years and 316 days after its filing date, and there were no periods excluded pursuant to 35 U.S.C. 154(b)(1)(B)(i)-(iii) and 37 CFR 1.702(b)(1)-(4). However, entry of an additional adjustment for Office delay is limited by 35 U.S.C. 154(b)(2)(A) and 37 CFR 1.703(f).

35 U.S.C. 154(b)(2)(A) provides the following limitation:

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

As further provided in 37 CFR 1.703(f):

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of

---

[1] 37 CFR 1.702 (b) provides that: 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:
(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.

Further, 37 CFR 1.703(b) provides that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of …
(the excluded periods).

this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704.

Pursuant to 35 USC 154(b)(2)(A) and 37 CFR 1.703(f), any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. The Office has explained that in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). *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)*, 1284 OG 109 (July 13, 2004); 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, other than the 469-day delay in issuing the first Office action, there were no Office delays during the pendency of this application. The Office did not delay 469 days and then an additional 316 days. Given the 469-day delay, the patent issued three years and 316 days after the application filing date. 469 days is the actual number of days the issuance of the patent was delayed by the Office. The 316 days pursuant to §1.702(b) overlapped with the 469 days accorded pursuant to §1.702(a)(1), and thus, no additional periods of adjustment were entered for Office delay in issuing the patent pursuant to §1.702(b).

In view thereof, the patent term adjustment remains 469 days.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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GOLDSTEIN & FOX P.L.L.C.
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WASHINGTON DC 20005

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DEC 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,510,035	:	
Irikura et al.	:	DECISION ON REQUEST
Issue Date: March 31, 2009	:	FOR
Application No. 11/132,440	:	RECONSIDERATION OF
Filed: May 19, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0666.2490000/	:	
ALF/AFK	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(d)," filed April 3, 2009. Patentees assert that the patent term adjustment indicated on the patent should be corrected from four hundred sixty-nine (469) days to seven hundred eighty-five (785) days

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

On March 31, 2009, the above-identified application matured into U.S. Patent No. 7,510,035, with a revised Patent Term Adjustment of 469 days. The instant request for reconsideration filed April 3, 2009 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment of 316 days should have been entered for the Office taking in excess of three years to issue the patent. Implicit in this assertion is an argument that the 316 days do not overlap with any of the days accorded for Office delay during the pendency of the application.

Patentees' argument has been considered, but not found persuasive. Pursuant to 35 U.S.C. 154(b) and implementing regulation 37 CFR 1.702(b), the patent term is to be adjusted for failure to issue a patent within three years of the actual

filing date of the application.[1] In this instance, the patent issued three years and 316 days after its filing date, and there were no periods excluded pursuant to 35 U.S.C. 154(b)(1)(B)(i)-(iii) and 37 CFR 1.702(b)(1)-(4). However, entry of an additional adjustment for Office delay is limited by 35 U.S.C. 154(b)(2)(A) and 37 CFR 1.703(f).

35 U.S.C. 154(b)(2)(A) provides the following limitation:

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

As further provided in 37 CFR 1.703(f):

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of

---

[1] 37 CFR 1.702 (b) provides that: 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:
(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.

Further, 37 CFR 1.703(b) provides that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of ...
(the excluded periods).

> this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704.

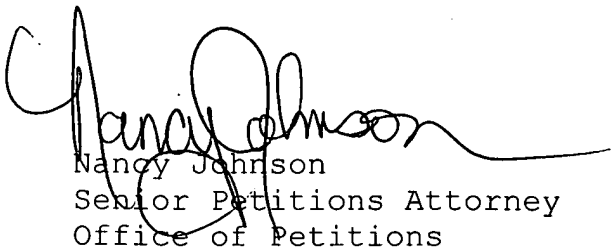
Pursuant to 35 USC 154(b)(2)(A) and 37 CFR 1.703(f), any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. The Office has explained that in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). *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)*, 1284 OG 109 (July 13, 2004); 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, other than the 469-day delay in issuing the first Office action, there were no Office delays during the pendency of this application. The Office did not delay 469 days and then an additional 316 days. Given the 469-day delay, the patent issued three years and 316 days after the application filing date. 469 days is the actual number of days the issuance of the patent was delayed by the Office. The 316 days pursuant to §1.702(b) overlapped with the 469 days accorded pursuant to §1.702(a)(1), and thus, no additional periods of adjustment were entered for Office delay in issuing the patent pursuant to §1.702(b).

In view thereof, the patent term adjustment remains 469 days.

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/132,469	05/19/2005	Robert W. Gray	RWG-793

CONFIRMATION NO. 6780

37282
HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER, NY 14445-2408

OC000000019657381

Date Mailed: 07/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/06/2005.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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

Howard J. Greenwald, PC
349 W. Commercial Street, Suite 2490
East Rochester, NY 14445-2408

COPY MAILED

JUL 24 2006

OFFICE OF PETITIONS

In re Application of :
Robert W. GRAY, et al. :
Application No. 11/132,469 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. RWG-793 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2005.

The request is **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 Greenwald on behalf of all attorneys of record who are associated with customer No. 37282

All attorneys/agents associated with the Customer Number 37282 have been withdrawn.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert W. Gray
92 Cypress Street
East Rochester, NY 14620

cc: Biophan Technologies, Inc.
150 Lucius Gordon Drive, Suite 215
West Henrietta, NY 14586

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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MICHAEL J. NICKERSON
BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NEW YORK 14526

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Gray et al.	:	DECISION ON PETITION
Application No. 11/132,469	:	TO WITHDRAW
Filed: May 19, 2005	:	FROM RECORD
Attorney Docket No. 1008 027 301 0251	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2009.

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

A review of the file record indicates that on February 17, 2009 the power of attorney to Basch & Nickerson LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Biophan Technologies, Inc.
15 Schoen Place
Pittsford NY 14534

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Paper No.

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OFFICE OF PETITIONS

In re Patent No. 7,443,489	:	
Natan et al.	:	DECISION DISMISSING
Application No. 11/132,471	:	REQUEST FOR
Issue Date: October 28, 2008	:	RECONSIDERATION OF
Filed: May 18, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: NPX2104C/C-C3	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT, filed on December 23, 2008, which is being treated as a petition pursuant to 37 CFR § 1.705(d), requesting that the patent term adjustment determination for the above-identified patent be changed from eighty-seven (87) to one hundred and sixty-three (163) days.

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

On October 28, 2008, the application matured into U.S. Patent No. 7,443,489, with a revised patent term adjustment of 87 days. On December 23, 2008, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee) within two months of the issue date of the patent. Patentees argue, citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), that it is entitled to a total patent term adjustment of 163 days, which is the sum of the 163 days of patent term adjustment due to exceeding the three year pendency plus 76 days due to USPTO delay in prosecution, minus the 76 days of applicant delay.

It is noted that the instant patent issued 3 years and 163 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date

of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 163 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 76 days attributable to grounds specified in § 1.702(a)(1). Thus, at issuance, only an additional period of adjustment of 87 days was entered for a total of 163 days of Office delay.

It follows that the proper period of adjustment for Office delay was properly calculated to be 163 days.

In view thereof, the patent issued with a revised patent term adjustment of 87 (163 - 76) days.

Patentees argue that the time periods of patent term adjustment accrued due to examination delay for the Office taking in excess of 14 months to issue a first Office action and for the Office failure to issue the patent within three years of the actual filing date do not overlap. Patentees maintain that the patent term adjustment should be determined as the sum of the adjustments of the respective separate time periods, rather than the greater one of the term adjustments. Specifically, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 163 days.[1] This 163 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on May 18, 2005, and the patent having not issued until October 28, 2008, three years and 163 days later. Patentees do not agree with the Office's determination that the period of delay of 163 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 76 days attributable to grounds specified in § 1.702(a)(1).

[1] See petition, page 2.

The period of reduction of 76 days for applicant delay is not in dispute. Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (163 days) and the period of Examination Delay (76 days) less the period of Applicant Delay (76 days).

As such, patentees assert entitlement to a patent term adjustment of 163 days (163 + 76 reduced by 76).

The Office agrees that the patent issued 3 years and 163 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified timeframes, and thus, the entries of periods of adjustment of 76 days for Office delay and 76 days for Applicant delay are correct. At issue is whether the period of delay of 163 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 76 days attributable to grounds specified in § 1.702(a)(1).

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

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on May 18, 2008, the date that is 3 years after the actual filing date of the application, is incorrect.

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

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[2] 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).

under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, May 18, 2005 to October 28, 2008. 87 days of patent term adjustment were accorded since the period of delay of 163 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 76 days attributable to grounds specified in § 1.702(a)(1). The issuance of the patent was delayed by 163 days, not 163 + 76 days. The Office took 14 months and 76 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 76 days of Office delay and the 76 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 163 days after its filing date. The Office did not delay 76 days and then an additional 163 days. Accordingly, 163 days of patent term adjustment (not 76 and 163 days) was properly entered since the period of delay of 163 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 76 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 163 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 163 days over three years. Accordingly, at issuance, the Office properly entered 87 additional days of patent term adjustment Ifor a total Office delay of 163 days) for the Office taking in excess of 3 years to issue the patent.

Accordingly, at issuance, the Office properly entered 87 days (163 - 76 days) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 87 days. The patent properly issued with this indication contained thereon, and no further action is required.

CONCLUSION

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 Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[3] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

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

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

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

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

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

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[4]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in

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[4] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

an international application and ending on the date a patent was issued, but not including the sum of the following periods[5]:

37 CFR 1.703(f) provides that:

The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[5] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

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NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Wei Wang	: DECISION ON REQUEST FOR
Patent Number	: 7651702	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,473	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAR 16 2009

OFFICE OF PETITIONS

In re Application :
Williams :
Application No. 11/132,484 : PATENT TERM ADJUSTMENT
Filed: May 19, 2005 :
Dkt. No.: P01264-US-00 :
(22971.0001)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 24, 2008. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed October 17, 2008, indicated a patent term adjustment (PTA) to date of 93 days. The instant application for PTA was timely filed November 24, 2008, prior to payment of the issue fee. Applicants argue that the application is entitled to an additional adjustment of 344 days under the provisions of 37 CFR 1.705(b).

The correct PTA at the time of the allowance is 93 days, as indicated in the Determination of Patent Term Adjustment.

Applicants herein do not contest the adjustment of 213 days or the reductions totalling 120 days accorded at the time of allowance.

Instead, 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 of the application. 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 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.

Applicants are reminded that 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 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three 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 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Thus, the application is entitled to an adjustment of 93 days as of the time of allowance.

The required PTA application fee of $200.00 has been charged to applicants' deposit account, as authorized.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

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

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Mail Date: 05/17/2010

Applicant	: James A. Voege	: DECISION ON REQUEST FOR
Patent Number	: 7650650	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/132,492	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **599** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

COPY MAILED

SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Schroder, Marko :
Application No. 11/132,497 : DECISION ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. 1-27158 :

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

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 29, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 30, 2008. A Notice of Abandonment was mailed July 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $510, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3664 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

Mail Date: 04/21/2010

Applicant	: Matthew J. Blackford	: DECISION ON REQUEST FOR
Patent Number	: 7665248	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **550** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

Mail Date: 05/18/2010

Applicant : Matthew J. Blackford
Patent Number : 7665248
Issue Date : 02/23/2010
Application No: 11/132,499
Filed : 05/19/2005

: 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 **642** 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/132,503	05/18/2005	2673	1000	54949/DBP/Y35	5	19	3

CONFIRMATION NO. 6814

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

CORRECTED FILING RECEIPT

OC000000016619367

Date Mailed: 07/27/2005

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

Applicant(s)

Seung-Hun Chae, Suwon-si, KOREA, REPUBLIC OF;
Woo-Joon Chung, Suwon-si, KOREA, REPUBLIC OF;
Jin-Sung Kim, Suwon-si, KOREA, REPUBLIC OF;
Jin-Ho Yang, Suwon-si, KOREA, REPUBLIC OF;
Tae-Seong Kim, Suwon-si, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number **23363**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2004-0037284 05/25/2004

If Required, Foreign Filing License Granted: 06/22/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/132,503

Projected Publication Date: 12/01/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method for expressing gray scale of plasma display panel and plasma display device

Preliminary Class

345

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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COOLEY GODWARD KRONISH LLP
Attn: Patent Group
777 6th St NW, Suite 1100
WASHINGTON, DC 20001

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In re Application of :
KUO, et al. :
Application No. 11/132,509 : DECISION GRANTING PETITION
Filed: May 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NVID-108/00US 140060-2207 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 July 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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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LUCENT TECHNOLOGIES, INC.
C/O PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Julian Maurico Guio	: DECISION ON REQUEST FOR
Patent Number	: 7649862	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,511	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **537** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GUY MCCLUNG
NO. 347
16690 CHAMPION FOREST DRIVE
SPRING, TX 77379-7023

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OFFICE OF PETITIONS

In re Application of :
Guy L. McClung, III :
Application No. 11/132,512 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. GLM 006 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before April 4, 2006. Accordingly, this application became abandoned on April 5, 2006. A Notice of Abandonment was mailed on May 12, 2006.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUSKOP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON TX 77056

MAIL

JUL 2 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Ryan Scott Rodkey, et al.
Application No. 11/132,542
Filed: May 19, 2005
For: **SCHOOL-WIDE NOTIFICATION SYSTEM AND RESPONSE SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed May 19, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

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

In re Application of	:	
AXLER, et al.	:	
Application No. 11/132,548	:	DECISION ON PETITION
Filed: May 19, 2005	:	TO WITHDRAW
Attorney Docket No. P31989USA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 7, 2006.

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

A review of the file record indicates that the power of attorney to Lawrence E. Ashery of RATNERPRESTIA has been revoked by the applicant of the patent application on December 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SYNNESTVEDT & LECHNER LLP**
1101 MARKET STREET, 26TH FLOOR
PHILADELPHIA, PA 19107

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UNITED STATES DEPARTMENT OF COMMERCE
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YING CHEN
Chen Yoshimura LLP
255 S. GRAND AVE.
215
LOS ANGELES, CA 90012

Mail Date: 04/20/2010

Applicant	: Jin-Yu Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7584306	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,580	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **707** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO, IL 60603-5803

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OFFICE OF PETITIONS

In re Application of :
Vittorio Bologna :
Application No. 11/132,583 :
Filed: May 19, 2005 :
Attorney Docket No. 37407-403400 :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Anno Langen	: DECISION ON REQUEST FOR
Patent Number	: 7657892	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,601	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **833** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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INGRASSIA FISHER & LORENZ, P.C.
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

MAILED

APR 15 2009

OFFICE OF PETITIONS

In re Application of :
Keith M. KLUG, et al. :
Application No. 11/132,643 : DECISION GRANTING PETITION
Filed: May 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **014.0020(GE04903)** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 13, 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 March 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2614 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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INGRASSIA FISHER & LORENZ, P.C. (GD)
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

Mail Date: 04/20/2010

Applicant	: Keith M. Klug	: DECISION ON REQUEST FOR
Patent Number	: 7643817	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **999** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GREGORY A. STOBBS
5445 CORPORATE DRIVE
SUITE 400
TROY MI 48098

MAILED

MAR 3 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Takata et al.	:	DECISION ON
Patent Number: 7,535,499	:	PETITION
Issue Date: 05/19/2009	:	UNDER RULE 1.705
Application No. 11/132654	:	and
Filing or 371(c) Date: 05/19/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 5077-000241/CO	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred nine (909) 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 nine (909) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is 348 days, not 333 days. This period begins on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), and ends on the issue date of the patent, or 365 days, but not including the number of days 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, and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151, or 16 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is 348 (365 days – 17 days), not 333 days.

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

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred twenty-four **(924)** days.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

CC: HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,535,499 B2

DATED : **May 19, 2009**

INVENTOR(S) : Takata 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 576 days.

Delete the phrase "by 576 days" and insert – by 924 days--

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Akerman Senterfitt
P.O. Box 3188
West Palm Beach, FL 33402-3188

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of :
Robert W, GRAY, et al. :
Application No. 11/132,676 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. RWG-830 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2005.

The request is **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 Greenwald on behalf of all attorneys of record who are associated with customer No. 37282.

All attorneys/agents associated with the Customer Number 37282 have been withdrawn.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert W. Gray
92 Cypress Street
East Rochester, NY 14620

cc: Biophan Technologies, Inc.
150 Lucius Gordon Drive, Suite 215
West Henrietta, NY 14586

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/132,676	05/19/2005	Robert W. Gray	RWG-830

CONFIRMATION NO. 7874

37282
HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER, NY 14445-2408

OC000000019641805

Date Mailed: 07/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/30/2005.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of :
Joel E. Habener, et. al. :
Application No. 11/132,687 : DECISION ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. 3284/1223B :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to correct the drawings on or before September 12, 2008, as required by the Notice to Allowability, mailed June 12, 2008. Accordingly, the date of abandonment of this application is September 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 15 sheets of replacement drawings, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Finance records indicate that $1620 was mistakenly charged to petitioner's deposit account for payment of the petition fee on October 23, 2008. Since the application is small entity, $810 will be refunded to the petitioner's deposit account.

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 Denise Williams at (571) 272-8930.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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

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MAY 26 2006
OFFICE OF PETITIONS

In re Application of :
Jouni Ala-Kojola :
Application No. 11/132,688 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 01329/0202836-USO :

This is a decision on the petition, filed May 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 6, 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 2817 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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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : May 26, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jouni Ala-Kojola
Application No. :11/132,688
Filed :May 18, 2005

The above-identified application has been assigned Patent No. 7,053,734 and an issue date of May 30, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 30, 2006:

> "All reference to Patent No. 7,053,734 to Jouni Ala-Kojola of Finland for RESONATOR FILTER appearing in the Official Gazette of May 30, 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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QUICKPATENTS, INC.
32861 Calle Perfecto
Suite A
San Juan Capistrano, CA 92675

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of
Jonathan Capriola
Application No. 11/132,706
Filed: May 19, 2005
Attorney Docket No. JC70423

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2009.

The request is **APPROVED**.

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

The request was signed by Kevin Prince 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 Jonathan Capriola at the address indicated below.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Jon Capriola**
PO Box 22003
Sarasota, FL 34276

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
11/132,706	05/19/2005	Jonathan Capriola	JC70423

CONFIRMATION NO. 6188

POWER OF ATTORNEY NOTICE

56029
QUICKPATENTS, INC.
32861 CALLE PERFECTO
SUITE A
SAN JUAN CAPISTRANO, CA 92675

OC000000042166140

Date Mailed: 06/18/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2009.

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

/tsjohnson/

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

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Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Ferber et al. :
Application No. 11/132,731 : DECISION GRANTING PETITION
Filed: May 18, 2005 :
Attorney Docket No. 8011.3022-00 :

This is a decision on the petition filed August 25, 2005, requesting that the above-identified application be accorded a filing date of May 18, 2005.

On May 18, 2005, applicants deposited the above-identified application. On June 27, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating, *inter alia*, that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted items.

In response, on August 25, 2005, applicants submitted, *inter alia*, the present petition, 4 sheets of drawings (Figures 1-4), a returned, date-stamped postcard receipt, and an authorization to charge the Deposit Account for any necessary fees. The postcard acknowledged receipt of 4 sheets of drawings (Figures 1-4) in the United States Patent and Trademark Office (USPTO) on May 18, 2005.

Upon review of the record, the 4 sheets of drawings, deposited on May 18, 2005, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on May 18, 2005, included 4 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application including the 4 sheets of drawings (Figures 1-4), was complete on filing and will be granted a filing date of May 18, 2005.

Accordingly, the petition is granted.

The requirement for drawings as set forth in the Notice of Incomplete was sent in error and is hereby withdrawn. Accordingly, the $400.00 petition fee is unnecessary and will be credited to Deposit Account No. 06-0916.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of May 18, 2005,** using the 4 sheets of drawings (Figures 1-4) submitted on August 25, 2005, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Laurent Blonde	: DECISION ON REQUEST FOR
Patent Number	: 7593541	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,737	: 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 **540** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
Gregory Philip Ruhlander
Application No.11/132,738
Filed: April 26, 2005
Attorney Docket No. DAS-11302/50

DECISION ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed April 8, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3656 for appropriate action by the Examiner in the normal course of business on the reply received December 23, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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AUG 2 9 2008

In re Application of	:	
Atsushi Kasuya	:	
Application No. 11/132,742	:	DECISION ON PETITION
Filed: May 18, 2005	:	TO WITHDRAW
Attorney Docket No. 23642-08119	:	FROM RECORD
	:	

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

The application became abandoned for failure to timely respond to the Office action mailed December 17, 2007.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Atsushi Kasuya**
1643 Wright Avenue
Sunnyvale, CA 94087

cc: **Venture Pacific Law, P.C.**
5201 Great America Parkway, Suite 270
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/132,742	05/18/2005	Atsushi Kasuya	23642-08119

CONFIRMATION NO. 8413

POWER OF ATTORNEY NOTICE

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

OC00000003182583 1

Date Mailed: 08/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/08/2008.

- 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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/23/2010

Applicant	: Alexander S. Grodsky	: DECISION ON REQUEST FOR
Patent Number	: 7651738	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/132,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1168** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

MAILED

MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
John H. Carpenter Jr. :
Application No. 11/132,750 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. TI-39593 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the 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.

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

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

This application is being referred to Technology Center AU 2838 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: William B. Kempler
7839 Churchill Way
Dallas, TX 75251

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

AUG 19 2005

KEN E. WONG
5122 LIKINI ST. # 307
HONOLULU HI 96818

In re Application of :
Ken E. Wong :
Serial No.: 11,132,753 : DECISION ON PETITION
Filed: May 18, 2005 :
For: Method and Liquid-Filled Apparatus :
For Male Masturbation :

This is in response to the petition applicant filed on May 18, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 22, 2007

Patent No. : 7224320 B2
Application No : 11/132761
Inventor(s) : Cook
Issued : May 29, 2007
Title : **SMALL WAVE-GUIDE RADIATORS FOR CLOSELY SPACED FEEDS ON MULTI-BEAM ANTENNAS**
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

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

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

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

MEHRMAN LAW OFFICE, P.C.
One Premier Plaza
Suite 795
5605 Glenridge Drive
Atlanta GA 30342

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Blau et al.	:	DECISION ON PETITION
Application No. 11/132,764	:	TO WITHDRAW
Filed: May 18, 2005	:	FROM RECORD
Attorney Docket No. STAN-467	:	

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 22, 2005.

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

A review of the file record indicates that the power of attorney to practitioners associated with Morrison & Foerster LLP has been revoked by the assignee of the patent application on December 5, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: STANFORD UNIVERSITY OFFICE OF TECHNOLOGY LICENSING
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013-1024

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JUL 08 2008

OFFICE OF PETITIONS

In re Application of :
MISHIMA, et al. :
Application No. 11/132,768 : DECISION GRANTING PETITION
Filed: May 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **393032052700** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2837 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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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

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DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Pingfan Wu, et. al. :
Application No. 11/132,789 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 31451-EM-2096 :

This is a decision on the petition, filed October 25, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f). The delay in responding is regretted.

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 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 October 25, 2006. 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).

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 the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

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OFFICE OF PETITIONS

In re Application of :
Pingfan Wu, et. al. :
Application No. 11/132,789 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 31451-EM-2096 :

This is a decision on the renewed petition, filed January 4, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 17, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) filed on October 25, 2006 has been rescinded. A Notice Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of October 9, 2008 accompanies this decision on petition.

It is noted that a final Office action was mailed on December 28, 2007, in which petitioner timely responded on June 30, 2008 with an amendment, a Notice of Appeal and $510 fee with $1,050 for a three months extension of time. Accordingly, the petition is being treated as having been granted prior to the mailing of the December 28, 2007 Office action.

Since this decision ratifies the ensuing prosecution, petitioner is reminded that the two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of the Notice of Appeal filed June 30, 2008.

This application is being referred to Technology Center Art Unit 2884, to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Andrea Smith
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
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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
11/132,789	05/18/2005	Pingfan Wu	31451-EM-2096

CONFIRMATION NO. 7366

5179
PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

NONPUBLICATION RESCISSION LETTER

Date Mailed: 07/02/2008

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 10/09/2008.

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.

[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".

/amsmith/

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

DATE : 8-26-08 Paper No.: _____

TO SPE OF : ART UNIT 3664

SUBJECT : Request for Certificate of Correction for Appl. No.: 11132792 Patent No.: 7386385

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.

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

Comments: _____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-26-08 Paper No.: _____

TO SPE OF : ART UNIT 3664

SUBJECT : Request for Certificate of Correction for Appl. No.: 11132792 Patent No.: 7386385

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.

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

Comments: _____

JACK KEITH
~~SUPERVISORY PATENT EXAMINER~~

SPE

3663
Art Unit

PATENT
HES 2004-IP-014562U1P1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jiten Chatterji et al.

Serial No.: unknown 11/132803

Filed: concurrently herewith 5-19-05

Art Unit: unknown 1755

Examiner: Unknown Marcantoni

For: FOAMED CEMENT COMPOSITIONS, ADDITIVES, AND ASSOCIATED METHODS

Assistant Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Group Director

DECLARATION IN SUPPORT OF PETITION
TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, IV)

I, the person signing below hereby declare:

1. That, I am over 65 years of age; and

2. That, all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Jchatterji

Jiten Chatterji

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

SEP 25 2006

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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MARRELL HANEY
1301 WEST 96TH STREET
CHICAGO, IL 60643

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of :
Haney, Marrell :
Application No. 11/132,858 : ON PETITION
Filed: May 18, 2005 :
Title: PIGGY CRUISER, A NON-TRADITIONAL CHILDREN RIDE-IN CAR :

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 instant petition includes a statement from the applicant, Marrell Haney, attesting to being over sixty-five years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. 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 3714 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

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JUN 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,505,606 :
Issued: March 17, 2009 :
Application No. 11/132,865 : PATENT TERM ADJUSTMENT
Filed: May 19, 2005 :
Dkt. No.: 418268586US :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B)," filed February 2, 2009. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(b) was timely filed February 2, 2009 at the time of issue fee payment. See, 37 CFR 1.705(b). However, prior to a decision on the merits of the application for patent term adjustment under 37 CFR 1.705(b), the above-identified application matured into U.S. Pat. No. 7,505,606 on March 17, 2009. The patent issued with a PTA 896 days. Patentees requested that the patent term adjustment be increased from 896 days to 1091 days, under the assumption that the patent would issue on July 14, 2009.

At the time of issuance, the patent was entitled to 896 days of adjustment, as reflected on the patent.

Patentees argue that the patent is entitled to an additional adjustment in accordance with 37 CFR 1.703(b) for failure to issue the patent within three years of the date upon which the application for patent was filed.

Patentee's arguments have been carefully considered, but are not convincing.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 C.F.R. § 1.704(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 application that 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, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule,* 69 Red. Reg. 21704 (April 22, 2004).

The application actually issued three years and 302 days after its filing date. However, the Office did not delay 896 days and then delay an additional 302 days. Accordingly, 896 days of patent term adjustment (not 896 days and 302 days) was properly entered because the entire period of delay of 302 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 896 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 receipt of the required patent term adjustment application fee of $200.00. *See*, 37 CFR 1.18(e).

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown 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
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DIW Jan-06

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Anathan Bala Srinivasan	:	DECISION REFUSING STATUS
Application No. 11/132,883	:	UNDER 37 CFR 1.47(b)
Filed: 19 May, 2005	:	
Atty Docket No. BEAS-01577US1	:	

This is a decision in response to the petition filed on 19 December, 2005 (certificate of mailing date 15 December, 2005), which is treated as a petition filed under 37 CFR 1.47(b).[1]

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 19 May, 2005, without an executed oath or declaration. Accordingly, on 15 June, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 19 December, 2005 (certificate of mailing date 15 December, 2005), petitioners filed the present petition,

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[1] A petition under 37 CFR 1.47(a) is inappropriate in this instance since none of the inventor(s) will sign the declaration. A petition under 37 CFR 1.47(a) is only appropriate where at least one of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(b).

accompanied by a four (4) month extension of time, surcharge, and petition fee.

With regards to the petition under 37 CFR 1.47(b), petitioner asserts a copy of the application was sent to the last known address of the non-signing inventor on several occasions, but was returned as undeliverable.

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 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;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (2) and (5).

In regards to item (2), an oath or declaration in compliance with 37 CFR 1.63, signed on behalf of the non-signing inventor by an officer of the corporation, must be supplied. The declaration must include the name, citizenship, residence, and mailing address of the non-signing inventor. If the inventor refuses to sign the declaration, the declaration must be signed by an officer of the corporation (president, vice president, secretary, treasurer, or chief executive officer) on behalf of and as agent for the non-signing inventor. The officer must identify his or her title in the declaration. If the declaration is not signed by an officer of the corporation, then proof of the authority of the person signing on behalf of the corporation must be submitted (See MPEP 409.03(b)).

In regard to item (5), petitioner has not shown sufficient proprietary interest in the subject matter to justify filing of the application under 37 CFR 1.47(b).[2] Petitioner may provide proof by showing a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant, or a legal memorandum signed by an attorney familiar

[2] MPEP 409.03(f).

with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

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

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

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

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22134

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

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FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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JUN 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Anathan Bala Srinivasan	:	DECISION ACCORDING STATUS
Application No. 11/132,883	:	UNDER 37 CFR 1.47(b)
Filed: 19 May, 2005	:	
Atty Docket No. BEAS-01577US1	:	

This is a decision in response to the request for reconsideration of petition under 37 CFR 1.47(b), filed on 24 April, 2006.

The petition is **GRANTED**.

The above-identified application was filed on 19 May, 2005, without an executed oath or declaration. Accordingly, on 15 June, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set. The petition filed on 19 December, 2005, was dismissed on 30 January, 2006.

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 that despite diligent efforts, the inventor could not be located. Additionally, petitioners have shown, via the "Employee Proprietary Information and Inventions Agreement" signed by inventor Srinivasan, that petitioner BEA Systems, Inc., has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Robert F. Donohue, Senior Vice President and General Counsel, BEA Systems, Inc., 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 the residence address listed on the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DNW Jun-06

Ananthan Bala Srinivasan
1610 Sanchez Street
San Francisco CA 94131

COPY MAILED

JUN 14 2006

OFFICE OF PETITIONS

In re Application of
Ananthan Bala Srinivasan
Application No. 11/132,883
Filed: 19 May, 2005
For: SYSTEM AND METHOD FOR APPLICATION DEPLOYMENT SERVICE

Dear Mr. Srinivasan:

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 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

FLIESLER MEYER LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Ananthan Bala Srinivasan	: DECISION ON REQUEST FOR
Patent Number	: 7660879	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,883	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **634** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/132,888	05/18/2005	3621	1650	ORCL5577CON	4	29	4

CONFIRMATION NO. 7454

22430
YOUNG LAW FIRM
A PROFESSIONAL CORPORATION
4370 ALPINE ROAD SUITE 106
PORTOLA VALLEY, CA 94028

CORRECTED FILING RECEIPT

OC000000016412358

Date Mailed: 06/29/2005

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

Applicant(s)

Richard C. Johnson, Poquott, NY;

Assignment For Published Patent Application

Oracle International Corporation, Redwood Shores, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/272,056 03/18/1999 PAT 6,898,577

Foreign Applications

If Required, Foreign Filing License Granted: 06/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/132,888

Projected Publication Date: 10/06/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods and systems for single sign-on authentication in a multi-vendor e-commerce environment and directory-authenticated bank drafts

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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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4370 ALPINE RD.
STE. 106
PORTOLA VALLEY, CA 94028

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Johnson :
Application No. 11/132,888 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. ORCL5577CON :

This is a decision on the petition filed June 24, 2005, to accord the above-identified application a filing date of May 18, 2005, instead of May 19, 2005.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application has been accorded a filing date of May 18, 2005.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUN 10 2008

In re Application of :
Prexl, et al. :
Application No. 11/132,899 : DECISION ON PETITION
Filed: May 19, 2005 : UNDER 37 CFR 1.55(c)
Attorney Docket No. TI-38065 :

This is a decision on the petition filed December 13, 2007 under 35 USC 119, that is properly treated under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Application No. DE 10 2004 026710.3, filed May 28, 2004.

The petition is **DISMISSED**.

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

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

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

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

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

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

The petition fails to comply with items (2) and (4) above. **In regard to item (2)**, a review of the file record fails to disclose that the priority information was properly included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14. In the instant application, the declarations filed May 19, 2005 and October 3, 2005, do not reference the foreign Application No. DE 10 2004 026710.3 to which priority is being sought. **In regard to item (4)**, the statement in the instant petition pertaining to unintentional delay references 37 CFR 1.78 rather than 37 CFR 1.55 (a)(1).

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied and a proper statement of unintentional delay must be included, if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

By mail:
Mail Stop PETITIONS
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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 Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
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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FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Prexl, et al. :
Application No. 11/132,899 : DECISION ON PETITION
Filed: May 19, 2005 : UNDER 37 CFR 1.55(c)
Attorney Docket No. TI-38065 :

This is a decision on the renewed petition filed November 10, 2008, under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Application No. DE 10 2004 026710.3, filed May 28, 2004.

The petition is **GRANTED**.

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

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

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

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

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

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

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

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

This application was filed on May 19, 2005, which is after November 29, 2000 and within 12 months of May 28, 2004 (the filing date of the foreign application to which benefit is now being claimed). On November 10, 2008, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 2838 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914.

Anthony Knight
Supervisor,
Office of Petitions

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/132,899	05/19/2005	2838	1130	TI-38065	3	1

CONFIRMATION NO. 7490

CORRECTED FILING RECEIPT

23494
TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Date Mailed: 02/27/2009

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)

Franz Prexl, Niederding, GERMANY;
Kevin Scoones, Munich, GERMANY;
Stefan Reithmaier, Vilsheim, GERMANY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications
GERMANY 10 2004 026710.3 05/28/2004

If Required, Foreign Filing License Granted: 06/22/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/132,899**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Control circuit for a polarity inverting buck-boost DC-DC converter

Preliminary Class

323

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).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Prexl et al.	§	
	§	
Serial Number: 11/132,899	§	
	§	Group Art Unit: 2838
Filed: May 19, 2005	§	
	§	
For: CONTROL CIRCUIT FOR A POLARITY INVERTING BUCK-BOOST DC-DC CONVERTER	§	Examiner: Ramy Ramadan
	§	
	§	

RENEWED PETITION UNDER 37 C.F.R. §1.55(c) TO
ACCEPT AN UNINTENTIONALLY DELAYED PRIORITY CLAIM
UNDER 35 U.S.C. §119

Dear Sir:

This petition, pursuant to 37 C.F.R. §1.55(c), seeks acceptance for an unintentionally delayed priority claim under 35 U.S.C. §119 for the above-reference Application ("Application").

I. STATEMENT OF FACTS

Applicants state the following, on information and belief:

1. U.S. Serial No. 11/132,899, filed 5/19/2005, corresponds to German Patent Application No. DE 10 2004 026710.3, filed 5/28/2004.

2. U.S. Serial No. 11/138,040, filed 5/26/2005, which is commonly owned, corresponds to German Patent Application DE 10 2004 026215.2, filed 5/28/2004.

3. The priority application numbers for those two commonly owned U.S. applications became switched at the time of filing, so that U.S. Application No. 11/132,889 claimed priority from German Patent Application No. DE 10 2004 026215.2, instead of its corresponding German Application No. DE 10 2004 026710.3.

4. As the filing dates of the two German priority applications were the same, no delay in publication of the instant application resulted because the wrong German patent application number was given herein.

5. A certified copy of DE 10 2004 026710.3 was submitted by express mail on March 12, 2008.

6. A corrected declaration has been submitted herewith which recites a correct claim of priority to German Application No. DE 10 2004 026710.3.

7. The specification has been amended in the Request for Continued Examination submitted herewith to reflect the correct claim of priority to German Application No. DE 10 2004 026710.3.

8. Applicants filed a Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. §119 on December 13, 2007, which was denied on June 10, 2008.

9. The entire delay between the date the claim was due under 37 C.F.R. §1.55(a)(1) and the date the claim is made herewith was unintentional.

II. POINT OF REVIEW

Applicants respectfully request reconsideration of its petition to accept an unintentionally delayed claim of priority under 35 U.S.C. because Applicants have complied with the statutory and the regulatory requirements associated with the Application.

III. ARGUMENTS

In denying Applicants' previous petition, the Office stated that Applicants did not comply with the requirements of 37 C.F.R. §1.55(c). Namely, Applicants did not include a correct declaration as set forth in 37 C.F.R. §1.55(d)(ii) and did not include a correct statement as set

forth in 37 C.F.R. §1.55(c)(3). In response, Applicants have corrected statement and declaration, complying with the requirements of 37 C.F.R. §1.55(c).

IV. CONCLUSION

Applicants, therefore, respectfully request that the Commissioner grant this Petition in all respects.

Applicants have included a payment in the amount of $1410 to cover the fee set forth in 37 C.F.R. §1.17(t). In the event that any additional fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account 20-0668 of Texas Instruments Incorporated.

Should the Examiner require any further clarification to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

Dated: Nov. 7, 2005

John J. Patti
Reg. No. 57,191
Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, Texas 75265
Phone: (972)917-4144

SPECIFICATION

Please replace the paragraph at page 2, lines 3-4, with the following, where underlines denote insertions and strikethroughs denote deletions:

This application claims priority under 35 U.S.C. §119 of German Patent Application Serial No. ~~10 2004 026215.2~~ 10 2004 026710.3, filed May 28, 2004.

A clean version of the paragraph marked-up above is as follows:

This application claims priority under 35 U.S.C. §119 of German Patent Application Serial No. 10 2004 026710.3, filed May 28, 2004.

COMBINED DECLARATION & POWER OF ATTORNEY FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)

☐ Declaration Submitted with Initial Filing

☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16(e)) required

Attorney Docket Number	TI-38065
First Named Inventor	Franz Prexl
COMPLETE IF KNOWN	
Application Number	11/132,899
Filing Date	05/19/2005
Art Unit	2838
Examiner Name	Ramy O. Ramadan

I hereby declare that: (1) Each inventor's residence, mailing address, and citizenship are as stated below next to their name and (2) I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled

CONTROL CIRCUIT FOR A POLARITY INVERTING BUCK-BOOST DC-DC CONVERTER

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on 05/19/2005 as United States Application Number or PTC International Application Number 11/132,899 and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

Authorization To Permit Access To Application by Participating Offices

☒ If checked, the undersigned hereby grants the USPTO authority to provide the European Patent Office (EPO), the Japan Patent Office (JPO), and any other intellectual property offices in which a foreign application claiming priority to the above-identified application is filed access to the above-identified patent application. See 37 CFR 1.14(c) and (h). This box should not be checked if the applicant does not wish the EPO, JPO, or other intellectual property office in which a foreign application claiming priority to the above-identified application is filed to have access to the application.

In accordance with 37 CFR 1.14(h)(3), access will be provided to a copy of the application-as-filed with respect to: (1) the above-identified application, (2) any foreign application to which the above-identified application claims priority under 35 USC 119(a)-(d) if a copy of the foreign application that satisfies the certified copy requirement of 37 CFR 1.55 has been filed in the above-identified US application, and (3) any U.S. application from which benefit is sought in the above-identified application.

In accordance with 37 CFR 1.14(c), access may be provided to information concerning the date of filing the Authorization to Permit Access to Application by Participating Offices.

POWER OF ATTORNEY

I hereby appoint Practitioners associated with **Customer Number 23494** of **Texas Instruments Incorporated** as my/our attorneys or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected herewith. I also hereby authorize said practitioners to insert the filing date and/or application number, above, when known.

DECLARATION & POWER OF ATTORNEY – Utility or Design Patent Application

CLAIM OF FOREIGN PRIORITY BENEFITS

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	NO
10 2004 026710.3	DE	05/28/2004	☐	☐	☒
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto

DECLARATION & POWER OF ATTORNEY – Utility or Design Patent Application

Direct all correspondence to: ☒ The address associated with Customer Number	23494		
Name	Texas Instruments Incorporated		
Contact: John J. Patti	Telephone: (972) 917-4144	Fax: (972) 917-4418	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR	☐ A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]): Franz		Family Name or Surname: Prexl	
Inventor's Signature:			Date: 2008-10-27
Residence: City: Niederding	State:	Country: DE	Citizenship: Germany
Mailing Address: Erdinger Str. 17			
Residence: City: Niederding	State:	ZIP: 85445	Country: Germany
NAME OF SECOND INVENTOR	☐ A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]): Kevin		Family Name or Surname: Scoones	
Inventor's Signature: K. Scoones			Date: 2008-11-03
Residence: City: Dallas	State: TX	Country: US	Citizenship: U.K.
Mailing Address: 5555 E Mockingbird Lane, Apt 4111			
Residence: City: Dallas	State: TX	ZIP: 75206	Country: U.S. ~~Germany~~
NAME OF THIRD INVENTOR	☐ A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]): Stefan		Family Name or Surname: Reithmaier	
Inventor's Signature:			Date: 2008-10-27
Residence: City: Vilsheim	State:	Country: DE	Citizenship: Germany
Mailing Address: ~~Rosenstr. 51~~			
Residence: City: Vilsheim	State:	ZIP: 84186	Country: Germany

SEND COMPLETED FORMS TO: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Franz Prexl	: DECISION ON REQUEST FOR
Patent Number	: 7595616	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **436** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/21/2010

Applicant	: George W. Griesgraber	: DECISION ON REQUEST FOR
Patent Number	: 7612083	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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AUG 0 1 2008

In re Application of
Davis, et al.
Application No. 11/132,902
Filed: May 19, 2005
Attorney Docket No. 920229-99404

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 31, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 18, 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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of November 6, 2008 accompanies this decision on petition.

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

This application is being returned to Technology Center Art Unit 3767 for consideration of the amendment filed on February 15, 2008.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/132,902	05/19/2005	Gregory T. Davis	920229-99404

CONFIRMATION NO. 7465

23644
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

NONPUBLICATION RESCISSION LETTER

OC000000030767433

Date Mailed: 07/30/2008

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 11/06/2008.

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.

[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".

/swbrantley/

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

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

Mail Date: 04/21/2010

Applicant	: Hyun-Gue Park	: DECISION ON REQUEST FOR
Patent Number	: 7590435	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,911	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Dwayne L. Bentley
Law Office of Dwayne L. Bentley
Suite 1112
16 Court Street
Brooklyn, NY 11241

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NOV 0 1 2006

OFFICE OF PETITIONS

In re Application of :

Karlene A. Murray et al. :
Application No. 11/132,926 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 206.001PT : FROM RECORD
:

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

Dwayne L. Bentley has been withdrawn as attorney or agent of record.

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

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

There is an outstanding Office action mailed July 3, 2006 that requires a reply from the applicant.

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

Terri Williams
for

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Karlene A. Murray**
501 East 93rd Street
Apt. 1
Brooklyn, NY 11212

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
11/132,926	05/19/2005	Karlene A. Murray	206.001PT

CONFIRMATION NO. 8435

OC000000021037249

OC000000021037249

Dwayne L. Bentley
LAW OFFICE OF DWAYNE L. BENTLEY
Suite 1112
16 Court Street
Brooklyn, NY 11241

Date Mailed: 10/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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KARLENE A. MURRAY
501 EAST 93RD STREET
APT. 1
BROOKLYN, NY 11212

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AUG 10 2007

OFFICE OF PETITIONS

In re Application of
Karlene A. Murray, et al.
Application No. 11/132,926
Filed: May 19, 2005
Attorney Docket No. 206.001PT

ON PETITION

This is a decision in response to the petition, filed March 23, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 3, 2006. A Notice of Abandonment was mailed January 29, 2007. In response, on March 23, 2007, the present petition was filed, along with, *inter alia*, an amendment and a Revocation and Power of Attorney.

The Revocation and Power Attorney filed March 23, 2007 cannot be accepted since it is not signed by all the inventors as required by 37 CFR 1.33. However, in accordance with 37 CFR 1.34(a), the signature of Alozie Etufugh 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. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Etufugh desires to receive future correspondence regarding this application, 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 address of record. At present, the request to change the correspondence address filed March 23, 2007 will not be processed.

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[1].

The application is being referred to Technology Center AU 3751 for consideration of the response filed March 23, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ALOZIE ETUFUGH
LAW OFFICES OF ALOZIE N. ETUFUGH, PLLC
30 CENTRAL PARK AVENUE SOUTH, SUITE 4D
NEW YORK, NY 10019

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CST

3-20-07

In re application of
William Watson
Serial No. 11/132,928
Filed: May 18, 2005
For: COMPOSITE PIPE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on January 24, 2007 (Certificate of Mailing January 20, 2007) to make the above-identified application special.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes 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), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection I (Manufacture) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes 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) on or after August 25, 2006;
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.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed on or after August 25, 2006 (the filing date is May 18, 2005) and it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web.

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 Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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HAVERSTOCK GARRETT & ROBERTS, LLP
611 OLIVE STREET, SUITE 1610
ST. LOUIS, MO 63101

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OFFICE OF PETITIONS

In re Application of :
MERLINE :
Application No. 11/132,929 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 3751 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 2006.

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

A review of the file record indicates that the power of attorney to Mary T. Edwards of HAVERSTOCK GARRETT & ROBERTS LLP has been revoked by the applicant of the patent application on November 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PAUL MERLINE**
17261 HILLTOP RIDGE DRIVE
EUREKA, MO 63025

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LEVISOHN BERGER LLP
61 BROADWAY, 32ND FLOOR
NEW YORK, NY 10006

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OFFICE OF PETITIONS

In re Application of :
Craig M. Whitehouse et al :
Application No. 11/132,956 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. 840.119 :

This is a decision on the petition filed July 19, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed March 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 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 payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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
11/132,960	05/19/2005	2821	1130	YKI-0175	7	7	2

CONFIRMATION NO. 7654

23413
CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

CORRECTED FILING RECEIPT

OC000000018812589

Date Mailed: 05/16/2006

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)

Kyoji Ikeda, Yoro-gun, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **23413**.

Domestic Priority data as claimed by applicant

Foreign Applications	**Acceptable Request to Retrieve Priority Application Received?**
JAPAN 2004-150944 05/20/2004	NO

If Required, Foreign Filing License Granted: 06/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/132,960

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Current-driven pixel circuit

Preliminary Class

315

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

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Date : February 8, 2007

Patent No. : 7,149,235 B2
Inventor(s) : Tojo, et al.
Issued : December 12, 2006
Title : **MULTI-BEAM SEMICONDUCTOR LASER DEVICE**
Docket No. : 09792909-6276

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

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

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

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

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

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

CBN/eme

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Patent No. 7,149,235 :
Issue Date: 12/12/2006 :
Application No. 11/132,981 : DECISION ON PETITION
Filed: 05/19/2005 :
Attorney Docket No. 09792909-6276 :

This is a decision on the petition filed March 21, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA, SUITE 300
AKRON, OH 44311-1076

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JUL 22 2008

In re Application of :
Claudia M. HILLENBRAND, et al :
Application No. 11/132,989 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 200512.00029 : FROM RECORD
:

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 19, 2008.

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

A review of the file record indicates that the power of attorney to Scott M. Oldham, has been revoked by the assignee of the patent application on July 17, 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 first copied address indicated below until otherwise notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CASE WESTERN RESERVE UNIVERSITY
10900 EUCLID AVENUE
CLEVELAND, OH 44106

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KRAGULJAC & KALNAY
4700 ROCKSIDE ROAD
SUMMIT ONE, SUITE 510
INDEPENDENCE, OH 44131

Mail Date: 04/20/2010

Applicant	: Claudia M. Hillenbrand	: DECISION ON REQUEST FOR
Patent Number	: 7606612	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/132,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **589** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE, NY 10583

MAILED

FEB 06 2009

OFFICE OF PETITIONS

In re Application of :
Sonti Venkata Ramakrishna, et. al. :
Application No. 11/132,991 : DECISION ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. RELIA.P120 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 10, 2008 as required by the Notice of Allowance and Fee(s) Due, mailed July 10, 2008. Accordingly, the date of abandonment of this application is October 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of
Fu Chiung Chong et al
Application No. 11/133,021
Filed: May 18, 2005
Attorney Docket No. NNEX0001CIP3

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.313(a)

This is a decision on the petition, filed August 30, 2007, which is being treated as a petition under 37 CFR 1.313(a), 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 June 1, 2007, with the issue fee being due on or before September 4, 2007.

Office records do not show that the issue fee in this case has been paid.

The filing of a petition under to withdraw from issue is unnecessary here, since the mere filing of an RCE and submission (in this case, an Information Disclosure Statement) will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 2829 for appropriate processing of the RCE filed August 30, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALFRED E. MILLER
445 W. PUTNAM AVE
GREENWICH CT 06830

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Lasner, Jeffrey	:	
Application No. 11/133,036	:	DECISION ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. JL1104	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 3732 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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Jackson & Co., LLP
6114 4 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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SEP 1 2 2006

OFFICE OF PETITIONS

In re Application of :
Peter Furlong et al. :
Application No. 11/133,039 : DECISION ON PETITION
Filed: May 18, 2005 : TO WITHDRAW
Attorney Docket No. 4008 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 May 19, 2006.

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

A review of the file record indicates that the power of attorney to Seong-Kung Oh and the attorneys and/or agents of the firm Jackson & Co have been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **3Com Corporation**
350 Campus Drive
Marlborough, MA 01752

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Suite 507
Oakland, CA 94611-2802

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SEP 1 2 2006

OFFICE OF PETITIONS

In re Application of :
Andrew Hunter Gray et al. :
Application No. 11/133,040 : DECISION ON PETITION
Filed: May 18, 2005 : TO WITHDRAW
Attorney Docket No. 4000.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 May 19, 2006.

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

A review of the file record indicates that the power of attorney to Seong-Kung Oh and the attorneys and/or agents of the firm Jackson & Co have been revoked by the assignee of the patent application on June 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **3Com Corporation**
350 Campus Drive
Marlborough, MA 01752

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2/15/08

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of:
Sand, William F.
Serial No. 11/133,044
Filed: May 19, 2005
Docket: HYD/103
Title: CHEMICAL DISPENSER

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the Request to Reset Time to Respond to Office Action filed Dec. 6, 2007 requesting rest of time period to respond the outstanding Office action mailed on Sep. 26, 2007.

The petition is **granted.**

In support of the petition, petitioner alleges that the outstanding Office action mailed on Sep. 26, 2007 was received and logged in on Nov. 27, 2007. Petitioner further provides a copy of the cover sheet showing the receipt date of Nov. 27, 2007 with less than two months to respond the Office action. Petitioner also states that the applicant needs to consider whether or not an interview with the examiner might advance the prosecution of the application. Under the circumstances, the requirements of MPEP 710.06 are considered to have been met. This petition to reset time to respond to the Office action mailed on Sep. 26, 2007 is granted. The shortened statutory period for reply is now reset to expire three months from the receipt date of the Office action, Nov. 27, 2007. A reply is now due on or before Feb. 27, 2008.

The application is being forwarded to Examiner Hepperle of Art Unit 3753 waiting for applicant's response. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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DEC 17 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Oppenheimer Wolff & Donnelly LLP
Plaza VII, Suite 3300
45 South Seventh Street
Minneapolis MN 55402-1609

In re Application of: MARC GRIFFEL et al.
Serial No.: 12/133,046
Filed: June 4, 2008
Attorney Docket No.: **DE920080048US1 (3036)**
Title: **REAR DOOR HEAT EXCHANGER INSTRUMENTATION FOR HEAT QUANTITY MEASUREMENT**

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 October 27, 2008 requesting reconsideration to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

All of the requirements to correct the deficiencies outlined in the petition decision mailed October 7, 2008 have been met.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not

file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

/Michael Horabik/____

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of :

MAHAHAN, Satayan et al. :
Application No. 11/133,048 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. **2004854-0007** : FROM RECORD.

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 27, 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 John Lanza on behalf of all attorneys of record who are associated with customer No. 24280. All attorneys/agents associated with the Customer Number 24280 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 Satayan Mahajan at the address indicated below. There is an outstanding Office action mailed September 08, 2009 that requires a reply from the applicant.

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **SATAYAN MAHAJAN**
MOTUS CORPORATION
585 MASSACHUSETTS AVE., 4TH FLOOR
CAMBRIDGE MA 02139

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MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

Applicant	: Christopher D. Gosling	: DECISION ON REQUEST FOR
Patent Number	: 7601254	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,050	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **436** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ITHACA NY 14850

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OFFICE OF PETITIONS

In re Application of
Shawn Chawgo
Application No. 11/133,051
Filed: May 19, 2005
Title: Bonding Block For Coaxial Cable

ON PETITION

This is a decision on the petition under 37 CFR 1.182 to withdraw the holding of abandonment, filed December 14, 2006. This petition is properly treated as a petition under 37 CFR 1.181.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of January 24, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on April 21, 2006. An Advisory Action was mailed on May 1, 2006 informing applicant the response filed did not place the application in condition for allowance. A one month extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on May 25, 2006. A Notice of Abandonment was mailed on August 15, 2006.

Petitioner contends that a timely reply was filed in response to the final Office action in the form of a Request for Continued Examination (RCE). Petitioner states that he filed what he believed was an RCE on May 5, 2006 using the Electric Filing System (EFS). Petitioner contends he thought the procedure for filing an RCE was similar to the procedure to filing a new application via EFS. Applicant states that he did not file a transmittal letter and relied on the EFS-Web document description. The description stated "Amendment Submitted/Entered with Filing of CPA/RCE. Petitioner also submitted the fee for a new application because there was no separate fee field on EFS-Web for filing RCE. Upon the receipt of the Notice of Abandonment, petitioner

states he called the examiner. Petitioner contends the evidence including that found in the Official record shows clear intent to file an RCE. Petitioner request the withdrawal of the holding of abandonment.

Petitioner's argument has been considered but determined to be unpersuasive. A review of the documents shows that petitioner failed to file a request for continued examination. Petitioner filed a copy of the after-final amendment and paid filing fees. The description stated "Amendment Submitted/Entered with Filing of CPA/RCE points to the submission of the amendment not the filing of an RCE. The documents filed on May 5, 2006 cannot be construed as a request for continued examination.

Petitioner's purported discussion with the examiner does not convince the holding of abandonment should be withdrawn. Petitioner's reliance upon oral advice from a USPTO employee does not override the written requirements presented. Further, pursuant to 37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. 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.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Shawn Chawgo
Application No.11/133,051
Filed: May 19, 2005
Title of Invention: Bonding Block For Coaxial Cable

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed October 26, 2007.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of January 24, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on April 21, 2006. An Advisory Action was mailed on May 1, 2006 informing applicant the response filed did not place the application in condition for allowance. A one month extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on May 25, 2006. A Notice of Abandonment was mailed on August 15, 2006. A petition filed under 1.181 was dismissed on August 31, 2007

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

and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (1) the required reply. The proposed reply required for consideration of a petition to revive after a final Office Action must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie places the application in condition for allowance, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114. The Office is only in receipt of the submission requirement and not a Request for Continued Examination (RCE).

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

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

By facsimile:
(571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Shawn Chawgo :
Application No. 11/133,051 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. 205-1011 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 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 January 24, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 25 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2833 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.

Charlema Grant
Petitions Attorney
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Yoo et al.	:	
Application No. 11/133,071	:	DECISION ON PETITION
Filed: May 18, 2005	:	
Attorney Docket No. 5895P079	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 14, 2009, as required by the Notice of Allowance and Fee(s) Due mailed January 14, 2009. Accordingly, the date of abandonment of this application is April 15, 2009. A Notice of Abandonment was mailed May 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 payment of the issue fee of $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: Angel DeCegama	: DECISION ON REQUEST FOR
Patent Number	: 7630569	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1148** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: 6-11-07

CHK
Paper No.

In re Application of De Young et al.
Serial No.: 11/133,077
Filed: May 19, 2005

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: Low pH Development Solutions for Chemically Amplified Photoresists

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed January 17, 2006 to correct inventorship under 37 CFR 1.48(a) by adding the name of Mark Wagner, Merrick Miles, and Chris Harbinson to the list of inventors of the instant application and deleting the name of James B. McClain from the list of inventors.

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 or deleted 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 and (4) providing the processing fee set forth in 1.17(i).

However, applicant has not met the requirement of (5) providing the written consent of the assignee.

The petition is **DENIED**.

Cynthia H. Kelly
Supervisory Patent Examiner
TC 1700

Alyce Bonnen
MYERS, BIGEL, SIBLEY AND SAJOVEC
P.O. Box 37428
Raleigh, NC 27627

#1

HOA VAN LE
PRIMARY EXAMINER
09/09/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-1-09 Paper No.: _____

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/133077 Patent No.: 7235317

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

FOR IFW FILES: Should Inventorship be approved Filed 12-14-07

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

Cynthia H Kelly
SPE

1795
Art Unit

#2

HOA VAN LE
PRIMARY EXAMINER
04/08/09

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
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. : 7,235,347 B2

APPLICATION NO.: 11/133,077

DATED : June 26, 2007

INVENTOR(S) : Wagner et al.

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

On Title Page:

Item (75) Inventors: Please correct to read:
--Mark Wagner, Raleigh, NC (US);
James DeYoung, Raleigh, NC (US);
Merrick Miles, Raleigh, NC (US);
Chris Harbinson, Raleigh, NC (US)--

MAILING ADDRESS OF SENDER:
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

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 are required 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Schwartz Law Firm, P.C.
SouthPark Towers
Suite 530
6100 Fairview Road
Charlotte NC 28210

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APR 22 2008

OFFICE OF PETITIONS

In re Application of :
Tammy S. MILNER et al :
Application No. 11/133,082 : DECISION ON PETITION
Filed: 5/19/2005 :
Attorney Docket No. 299/1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 12/31/2007, 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 12/6/2007, as required by the Notice of Allowance and Fee(s) Due, mailed 9/6/2007. Accordingly, the date of abandonment of this application is 12/7/2007.

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

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

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or, in her absence, the undersigned at (571) 272-7099.

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

for David A. Bucci
Petitions Examiner
Office of Petitions

cc: JEFFREY J. SCHWARTZ
6100 FAIRVIEW ROAD, SUITE 1135
CHARLOTTE, NC 28210

UNITED STATES PATENT AND TRADEMARK OFFICE

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WARNER-LAMBERT COMPANY LLC
201 TABOR ROAD
MORRIS PLAINS, NJ 07950

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OCT 07 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Pauline Pan :
Application No. 11/133,098 :
Filed: May 19, 2005 :
Attorney Docket No. PC032275-03 ESW :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 14, 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 timely obtained. Accordingly, the application became abandoned on May 15, 2008. A Notice of Abandonment was mailed September 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

Since an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply, the extension of time request of September 15, 2008 is unnecessary and will not be charged to counsel;s deposit account as requested. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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

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

This application is being referred to Technology Center 1612 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DARRYL C. LITTLE
JOHNSON & JOHNSON
185 TABOR ROAD
MORRIS PLAINS, NJ 07950

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201 TABOR ROAD
MORRIS PLAINS NJ 07950

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Pan :
Application No. 11/133,098 : DECISION
Filed: 19 May, 2005 :
Attorney Docket No. PC032275-03-ESW :

This is a decision on the petition filed on 2 November, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 22 January, 2009 with reply due absent an extension of time on or before 22 February, 2009.

The application went abandoned by operation of law after midnight 22 February, 2009.

The Office mailed the Notice of Abandonment 21 September, 2009.

On 2 November, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an Election, and made the statement of unintentional delay.

(On 2 November, 2009, Petitioner also filed, *inter alia*, a terminal disclaimer (with fee), however, this apparently was pursuant to the Examiner's requirement therefor in the 14 February, 2008, Office action. That submission will not be disturbed.)

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]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Office of Technology Center/AU 1612 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE WI 53202

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AUG 08 2006

OFFICE OF PETITIONS

In re Application of	:	
Rosenberg	:	
Application No. 11/133,105	:	DECISION ON PETITION
Filed: May 19, 2005	:	TO WITHDRAW
Attorney Docket No. 965.002	:	FROM RECORD
	:	

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Ms. Cynthia Spaulding Rosenberg
32 Golden Boulevard
St. Catharines, Ontario, L2N 7M9
Canada

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STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE WI 53202

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
Rosenberg :
Application No. 11/133,105 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 965.002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 18, 2006.

The request is **APPROVED**.

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

The request was signed by Michael J. Gratz on behalf of all attorneys of record who are associated with customer No. 23598.

All attorneys/agents associated with the Customer Number 23598 have been withdrawn.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Ms. Cynthia Spaulding Rosenberg
32 Golden Boulevard
St. Catharines, Ontario L2N 7M9
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

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

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of :
Miller et al. :
Application No. 11/133,108 : ON APPLICATION FOR
Filed: May 19, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. :
039153-0704(TT5856) :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed on September 1, 2009, which is treated as an application for patent term adjustment filed under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 570 days, not 402 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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).

Applicants state that the patent is not subject to a terminal disclaimer.

---

[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.

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

Christina Partera Donnell for

Anthony Knight
Supervisor
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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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL (AMD)
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Roy Mark Miller	: DECISION ON REQUEST FOR
Patent Number	: 7649200	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND TX 77406-1247

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Strack et al.	:	
Application No. 11/133112	:	
Filing or 371(c) Date: 05/19/2005	:	ON PETITION
Pat. Num.: 7034538	:	
Issue Date: 04/25/2006	:	
Attorney Docket Number:	:	
KJT-04-01-DIV	:	

This is a notice regarding 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 patent must be paid at the large entity rate.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/133,115	05/19/2005	Jay Reimers	COS 987 (31223.00065)	8125

25264 7590 05/22/2008

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

EXAMINER	
BERMAN, SUSAN W	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
05/22/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 5-22-08

In re application of :
Jay Reimers et al. : DECISION ON
Serial No. 11/133,115 : PETITION
Filed: 05/19/2005 :
For: In-Situ Preparation Of Hydroperoxide Functionalized Rubber :

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed March 11, 2008, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the duplicate documents submitted on March 11, 2008 be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase ''and returned '' from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase ''and return '' from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

11/133,115

The images will be removed from the Official file.

Jacqueline M. Stone

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

Shirley A. Kopecky
FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

UNITED STATES 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. 062705

HOWREY SIMON ARNOLD & WHITE, LLP
c/o IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

NOV 1 2005

In re Application of:
W. Edward Naugler, Jr., *et al.*
Serial No.: 11/133,126
Filed: May 18, 2005
Attorney Docket No.:

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed May 18, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the inventor, W. Edward Naugler, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 062705

HOWREY SIMON ARNOLD & WHITE, LLP
c/o IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

JUL 7 2005

In re Application of:	:	
W. Edward Naugler, Jr., *et al.*	:	DECISION ON PETITION
Serial No.: 11/133,127	:	TO MAKE SPECIAL
Filed: May 18, 2005	:	
Attorney Docket No.:	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed May 18, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the inventor, W. Edward Naugler, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton LaBalle, Special Programs Examiner
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
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ATTN: THOMAS A. O'ROURKE
BODNER & O'ROURKE, LLP
425 BROADHOLLOW ROAD
MELVILLE, NY 11747

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Boukas, Alexander :
Application No. 11/133,137 : ON PETITION
Filed: May 19, 2005 :
Title: APPARATUS FOR COOLING LIQUID :
IN A PORTABLE CONTAINER

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 17, 2006 and May 15, 2006, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A Notice of Allowance and Notice of Allowability was mailed on January 6, 2006 with a due date of April 6, 2006. However, on February 8, 2006, a Notice of Withdrawal from Issue Under 37 CFR 1.313 was issued by the Director of Technology Center 3700. The Notice stated, "The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action with you."

On April 25, 2006, a new Notice of Allowance and Notice of Allowability were issued and mailed. The response due date is now July 25, 2006.

Accordingly, since petitioner previously submitted the Issue Fee Transmittal with payment of the issue/publication fees, the application is not abandoned, rendering the petition to revive unnecessary and moot. The petition fee submitted on April 17, 2006, will be refunded via treasury check in due course.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any other questions should be directed to the Publishing Division.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 05-06

Paper No:__

FULBRIGHT & JAWORSKI, LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

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MAY 3 0 2006

OFFICE OF PETITIONS

In re Application of :
Krepec :
Application No. 11/133,141 :
Filing Date: 19 May, 2005 :
Attorney Docket No.: GOUD:058USC1

DECISION

This is a decision on the petition filed on 31 March, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts (fee, oath/declaration) mailed by the Office on 17 June, 2005 with reply due in the absence of an extension of time on or before 17 August, 2005;
- the instant application went abandoned by operation of law after midnight 17 August, 2005;
- the Office mailed the Notice of Abandonment on 21 February, 2006;

- Petitioner filed the instant petition on 31 March, 2006, with, inter alia, an allegation that the Notice of Missing Parts had not been received, copies of docketing data and a statement that Petitioner had reviewed, inter alia, the file and file jacket and found no evidence of the receipt or presence of the Notice of Missing Parts.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies

---

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

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

> docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Petitioner appears to have satisfied that construct.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 21 February, 2006, Notice of Abandonment is **vacated**, and the fees are waived and were not charged.

The instant application is released to Technology Center 2100 for further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
SANDY UT 84070

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Cynthia Furse, John Mahoney, You Chung	:	DECISION GRANTING STATUS
Chung and Nirmal Nath Amarnath	:	UNDER 37 CFR 1.47(a)
Application No.11/133,145	:	
Filed: May 18, 2005	:	
Attorney Docket No. 22411.NP.PCT.US	:	
Title of Invention: Device and Method for Detecting Anomolies in a Wire and Related Sensing Methods	:	

This is in response to the petition filed November 14, 2005, under 37 C.F.R. §1.47(a).

Petitioner has shown the non-signing inventor Amarnath has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes he refuses to execute the application papers.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nirmal Nath Amarnath
1121 East 500 South, Apt 9
Salt Lake City, Utah 84102

In re Application of
Cynthia Furse, John Mahoney, You Chung Chung and Nirmal Nath Amarnath :
Application No.11/133,145 :
Filed: May 18, 2005 : LETTER
Attorney Docket No. 22411.NP.PCT.US :
Title of Invention: Device and Method for Detecting Anomolies in a Wire and Related Sensing Methods :

Dear Mr. Amarnath:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
SANDY UT 84070
ATTN: VAUGHN W. NORTH

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
SANDY UT 84070

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Cynthia Furse, John Mahoney, You Chung	:	DECISION GRANTING STATUS
Chung and Nirmal Nath Amarnath	:	UNDER 37 CFR 1.47(a)
Application No.11/133,145	:	
Filed: May 18, 2005	:	
Attorney Docket No. 22411.NP.PCT.US	:	
Title of Invention: Device and Method for Detecting Anomolies in a Wire and Related Sensing Methods	:	

This is in response to the petition filed November 14, 2005, under 37 C.F.R. §1.47(a).

Petitioner has shown the non-signing inventor Amarnath has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes he refuses to execute the application papers.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Nirmal Nath Amarnath
1121 East 500 South, Apt 9
Salt Lake City, Utah 84102

In re Application of
Cynthia Furse, John Mahoney, You Chung Chung and Nirmal Nath Amarnath :
Application No.11/133,145 :
Filed: May 18, 2005 : LETTER
Attorney Docket No. 22411.NP.PCT.US :
Title of Invention: Device and Method for Detecting Anomolies in a Wire and Related Sensing Methods :

Dear Mr. Amarnath:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

THORPE NORTH & WESTERN, LLP.
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SANDY UT 84070
ATTN: VAUGHN W. NORTH

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Patrick J. O'Shea
O'Shea, Getz & Kosakowski, P.C.
Suite 912
1500 Main Street
Springfield MA 01115

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OFFICE OF PETITIONS

In re Application of :
Chiron Van Der Burgt and Hans Fiesel : DECISION
Application No.11/133,146 :
Filed: May 19, 2005 :
Attorney Docket No. 3000-0020 :
Title of Invention: Device and Method for Noise :
Suppression :

This is in response to the petition under 37 CFR 1.47(a) filed October 19, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Van Der Burgot has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

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

Please note the above identified application number is 11/133,146.

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

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/10/08

TO SPE OF : ART UNIT 1793 Langel, Wayne

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/133152 Patent No.: 7182928

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Wayne A. Langel SPE 1793 Art Unit

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLACK LOWE & GRAHAM
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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AUG 22 2007

OFFICE OF PETITIONS

In re Application of :
James D. Allsop et al :
Application No. 11/133,163 : DECISION DISMISSING PETITIONS
Filed: May 18, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. ALSP-1-1005 :

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6),[1] filed July 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to prior-filed nonprovisional Application No. 11/130,832, filed May 16, 2005, and provisional Application No. 60/571,576, filed May 14, 2004, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 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)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

---

[1] While a claim for priority to provisional Application No. 60/571,576 was made on filing, this claim was not recognized since this nonprovisional application was not filed within one year of the filing date of the prior-filed provisional application.

The rule at 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 1.72(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.

A suggested format for the priority claim may read as follows: This application is a continuation [or continuation-in-part or division] of Application No. 11/130,832, filed May 16, 2005, which claims priority to Application No. 60/571,576, filed May 14, 2004.

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), along with an amendment or a Supplemental Application Data Sheet complying with the provisions of 37 CFR 1.121, which corrects the priority claim, is required. If submitted on a Supplemental Application Data Sheet, it must be signed in compliance with 37 CFR 1.33(b).

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

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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BLACK LOWE & GRAHAM
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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SEP 0 6 2007

OFFICE OF PETITIONS

In re Application of :
James D. Allsop et al :
Application No. 11/133,163 :DECISION GRANTING PETITIONS
Filed: May 18, 2005 :UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. ALSP-1-1005 :37 CFR 1.78(a)(6)
:

This is a decision on the RENEWED petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 30, 2007 and supplemented on September 4, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to prior-filed nonprovisional Application No. 11/130,832, filed May 16, 2005, and provisional Application No. 60/571,576, filed May 14, 2004.

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)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The amendment to the specification filed on August 30, 2007 to include the claim for benefit of priority to the above-noted prior-filed applications is improper and will not be entered. In this regard, the reference to add the prior-filed applications on page one following the first sentence of the specification 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). However, the claim for benefit of priority properly appears in the amendment to the specification filed on September 4, 2007 and will be entered upon the Examiner's determination that applicant is entitled to claim benefit of priority to the applications noted in the amendment.

Any questions concerning this matter 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.

This application is being referred to Technology Center Art Unit 2875 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/133,163	05/18/2005	2875	815	ALSP-1-1005	26	4

CONFIRMATION NO. 7122

CORRECTED FILING RECEIPT

OC000000025687536

25315
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

Date Mailed: 09/05/2007

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

Applicant(s)

James D. Allsop, Bellingham, WA;
Eivind Clausen, Bellingham, WA;
Jamey J. Allsop, Bellingham, WA;

Power of Attorney: The patent practitioners associated with Customer Number **25315**.

Domestic Priority data as claimed by applicant

This application is a CIP of 11/130,832 05/16/2005 ABN
which claims benefit of 60/571,576 05/14/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/133,163

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Offset solar-powered outdoor lighting apparatus

Preliminary Class

362

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.: X

DATE : June 20, 2008

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/133182 Patent No.: 7321293 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

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: Message has been sent in eDAN as well.

SPE — Art Unit 2612

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HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Mario M. Casabona	: DECISION ON REQUEST FOR
Patent Number	: 7660374	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,225	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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OCT 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Nevenka Golubovic-Liakopoulos et al :
Application No. 11/133,245 : DECISION GRANTING PETITION
Filed: May 20, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. APOGEE-13333 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed March 16, 2007, is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1792 to consider the reply received June 2, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/133,259	05/20/2005	Yasufumi Tsumagari	272845US2S	8194

7590 09/16/2008

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

EXAMINER	
BELTOWSKI, JARED D	

ART UNIT	PAPER NUMBER
4154	

NOTIFICATION DATE	DELIVERY MODE
09/16/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 09/12/2008 BPOWELL
05723/2005 KBETEMA1 00000058 11133259
02 FC:1111 -500.00 OP

Adjustment Date: 09/12/2008 BPOWELL
08712/2008 AGOITOM 00000032 503969 12165960
02 FC:2111 255.00 CR
04 FC:2202 75.00 CR

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Sung-Jin Park	: DECISION ON REQUEST FOR
Patent Number	: 7631241	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,287	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **754** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 05/18/2010

Applicant : Sung-Jin Park
Patent Number : 7631241
Issue Date : 12/08/2009
Application No: 11/133,287
Filed : 05/20/2005

: 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 **787** 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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MAIL

JAN 09 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST., N.W.
SUITE 300
WASHINGTON, DC 20005-3960

In re Application of
Raymond Chan
Serial No.: 11/133,296
Filed: May 20, 2005
For: **WEATHER STATION APPARATUS**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84 filed May 20, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 10 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**.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

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MAY 23 2006

OFFICE OF PETITIONS

Applicant: Hager et al.
Appl. No.: 11/133,325
Filing Date: May 20, 2005
Title: METHOD FOR PROVIDING BARRIER FIELDS AT THE ENTRANCE AND EXIT END OF A MASS SPECTROMETER
Attorney Docket No.: 571-989
Pub. No.: US 2005/0263697 A1
Pub. Date: December 1, 2005

This is a decision on the paper titled a "Request for Correction Of Patent Application Publication," received on January 11, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication, as the Office published the wrong assignment information.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request does not identify a material mistake in the publication made by the office under 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On August 24, 2005, a Filing Receipt was mailed by the Office, which listed the assignment information as "Hydrogenics Corporation". To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt along with a supplemental application data sheet.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Assignment information must be provided with the application data sheet or transmittal letter to be included on the publication.[2]

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

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

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

By facsimile: 571-273-8300

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

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

Enclosure: Corrected Filing Receipt

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
John Kuznarik et al. :
Application No. 11/133,353 : DECISION ON PETITION
Filed: May 20, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 36648-202217 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 5, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant John Kuznarik declaring that he is 65 years of age 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 3612 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/133,361	05/20/2005	Gary A. Wheeler	MAMC 04-39 08	7746

27370 7590 11/19/2007

OFFICE OF THE STAFF JUDGE ADVOCATE
U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
ATTN: MCMR-JA (MS. ELIZABETH ARWINE)
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

EXAMINER	
JENKINS, JENNIFER L	
ART UNIT	**PAPER NUMBER**
2169	

MAIL DATE	DELIVERY MODE
11/19/2007	PAPER

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

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

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Frederick N. Samuel
Office of the Staff Judge Advocate
U.S. Army Medical Research and Material Command
Attn: MCMR0JA (Ms. Elizabeth Arwine)
504 Scott Street
Fort Detrick, MD 21702-5012

In re Application of:
Gary A. WHEELER
Appl. No.: 11/133,361
Filed: May 20, 2005
For: SELF-SERVE PATIENT CHECK-IN AND PREVENTITIVE SERVICES KIOSK

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 01 October 2007, to expunge information submitted pursuant to MPEP § 724.

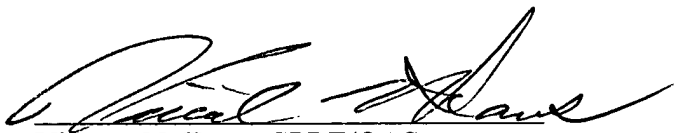
The petition is **DISMISSED**.

Petitioner requests that the information submitted on 01 October 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) will be charged to the Deposit Account No. 210380.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 01 October 2007 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/133,361	05/20/2005	Gary A. Wheeler	MAMC 04-39 08	7746

27370 7590 04/16/2010

OFFICE OF THE STAFF JUDGE ADVOCATE
U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
ATTN: MCMR-JA (MS. ELIZABETH ARWINE)
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

EXAMINER	
WONG, LESLIE	

ART UNIT	PAPER NUMBER
2164	

MAIL DATE	DELIVERY MODE
04/16/2010	PAPER

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

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

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Warren A. Zitlau
Office of the Staff Judge Advocate
U.S. Army Medical Research and Material Command
Attn: MCMR0JA (Ms. Elizabeth Arwine)
504 Scott Street
Fort Detrick, MD 21702-5012

In re Application of: Gary A. WHEELER Appl. No.: 11/133,361 Filed: May 20, 2005 For: SELF-SERVE PATIENT CHECK-IN AND PREVENTITIVE SERVICES KIOSK	DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the renewed petition under 37 CFR 1.59(b), filed on 02 November 2009 to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the documents submitted on 01 October 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR 1.17(g) has been previously paid.

Applicant is required to retain the expunged documents for the life of any patent, which issues on the above-identified application.

The expunged documents have been removed from the official file and will not be returned to the applicant. The petitions and support documents have been closed from public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/20/2010

Applicant	: Yuichi Shibazaki	: DECISION ON REQUEST FOR
Patent Number	: 7589823	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,372	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/133,378	05/20/2005	Mikio Sakemoto	272700US6	7789

7590 08/28/2009

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

EXAMINER
MEI, XU

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
08/28/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 08/28/2009 RPOWELL
05/23/2005 FFANAEIA 00000068 11133378
02 FC:1111 -500.00 CP

Adjustment date: 08/28/2009 RPOWELL
05/23/2005 FFANAEIA 00000068 11133378
02 FC:1111 -500.00 CP

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/25/2010

Applicant	: Cheng-Shing Lai	: DECISION ON REQUEST FOR
Patent Number	: 7623845	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/133,387	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1223** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
LI, et al. :
Application No. 11/133,419 : DECISION ON PETITION
Filed: May 18, 2005 : TO WITHDRAW
Attorney Docket No. 375462-027US : FROM RECORD
:

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 5, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request do 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: **MICHAEL GREENFIELD, PH.D.**
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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DECHERT LLP
P.O. BOX 10004
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MAY 31 2007

OFFICE OF PETITIONS

In re Application of	:	
LI Hui, et al.	:	
Application No. 11/133,419	:	DECISION ON REQUEST FOR
Filed: May 18, 2005	:	REVOCATION OF POWER
Attorney Docket No. 375462-027US	:	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 December 21, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP**
300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

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Commissioner for Patents
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JJGJR.: 02-06

Paper No: __

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

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 11/133,440 : ON PETITION
Filed: 20 May, 2005 :
Attorney Docket No. 8733.1364.00 :

This is a decision on the petition filed on 29 August, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 20 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 28 June, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on Monday, 29 August, 2005, Petitioner Valerie Hayes (Reg. No. 53,005) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventor Mr. Kim for himself and on behalf of non-signing co-inventor Yun Bok Lee (Mr. Lee), and Petitioner makes no statement that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Mr. Lee, moreover, the declaration of foreign associate Jang Won Park expressly states that only "a declaration was sent by certified mail" to Mr. Lee; further, two internet searches fall short of a showing of diligence in attempting to confirm a valid/current mailing address.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> REFUSAL TO JOIN
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not

been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands is deficient as to document support for the averment of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 02-06

Paper No: __

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& ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 11/133,440 : ON PETITION
Filed: 20 May,2005 :
Attorney Docket No. 8733.1364.00 :

This is a decision on the petition filed on 3 April, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

PETITIONER IS CAUTIONED TO BE ATTENTIVE TO THE INSTRUCTIONS HEREIN AND PROVIDE THE SHOWING THAT IS REQUESTED BELOW AND SO IS REQUIRED BY THE OFFICE. FAILURE TO DO SO MAY RESULT IN THE APPLICATION BECOMING ABANDONED FOR FAILURE TO REPLY PROPERLY AND TIMELY.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 20 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 28 June, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on Monday, 29 August, 2005, Petitioner Valerie Hayes (Reg. No. 53005) filed, *inter alia*, the original petition, an oath/declaration signed by M.r Kim for himself and on behalf of non-signing co-inventor Yun Bok Lee (Mr. Lee), and Petitioner made no statement that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Mr. Lee, moreover, the declaration of foreign associate Jang Won Park expressly stated that only "a declaration was sent by certified mail" to Mr. Lee; further, two internet searches fall short of a showing of diligence in attempting to confirm a valid/current mailing; and for those reasons the petition was dismissed on 2 February, 2006;

- the instant submission does no more than the original–there is no additional evidence of search, product of search, and not even a showing that an additional search was made–moreover, there is no showing that the entire application (description, claims, abstract and drawings) was sent to the non-signing inventor as is required by statute and regulation.

Petitioner specifically and expressly is instructed to satisfy those showings or risk a deficient reply being determined not to be a bona fide attempt to reply, with the potential result of abandonment of the application.

If Petitioner's foreign associate does not understand the responsibilities and requirements falling upon Petitioner as set forth by this decision, it is Petitioner's further responsibility to convey such a proper understanding.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be

> found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a

party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

[1] See: MPEP 409.03(b).

CONCLUSION

Once again, the record as it stands is deficient as to document support for the averment of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses.

The evidence of these requirements must be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

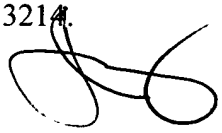
Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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



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

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[2] The Central Facsimile (FAX) Number is (571) 273-8300. The old number no longer is in service, and (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-07

Paper No: __

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

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OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 11/133,440 : ON PETITION
Filed: 20 May,2005 :
Attorney Docket No. 8733.1364.00 :

This is a decision on the petition filed on 5 October, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 20 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 28 June, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on Monday, 29 August, 2005, Petitioner Valerie Hayes (Reg. No. 53005) filed, *inter alia*, the original petition, an oath/declaration signed by M.r Kim for himself and on behalf of non-signing co-inventor Yun Bok Lee (Mr. Lee), and Petitioner made no statement that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Mr. Lee, moreover, the declaration of foreign associate Jang Won Park expressly stated that only "a declaration was sent by certified mail" to Mr. Lee; further, two internet searches fall short of a showing of diligence in attempting to confirm

a valid/current mailing; and for those reasons the petition was dismissed on 2 February, 2006;

- the submission did no more than the original–there is no additional evidence of search, product of search, and not even a showing that an additional search was made–moreover, there is no showing that the entire application (description, claims, abstract and drawings) was sent to the non-signing inventor as is required by statute and regulation, and so the petition again was dismissed on 6 June, 2006, with specific and express instructions to the Petitioner to satisfy those showings as previously set forth and provide whatever guidance required for the foreign associate to comply with Office requirements;

- the October 2006 petition seeks to overcome earlier deficiencies, and Petitioner has submitted a statement by the foreign associate in which he expressly outlined his efforts to show diligence as to a determination of a last known address for and transmission of the entire application to the non-signing inventor Mr. Lee.

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

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

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

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

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

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

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

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

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

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

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document,

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

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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/Caller's action(s).

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

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

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

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

[2] The regulations at 37 C.F.R. §1.2 provide:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 02-07

Paper No: __

YON-BOK LEE
43-8 DAEHEUNG-DONG MAPO-GU
SEOUL
REPUBLIC OF KOREA

COPY MAILED

MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 11/133,440 : COMMUNICATION
Filed: 20 May,2005 :
Attorney Docket No. 8733.1364.00 :

Dear Yon-Bok Lee:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application,

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[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

Counsel of Record:
MCKENNA LONG
& ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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Paper No.

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

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APR 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Satoh et al.	:	
Application No. 11/133,470	:	LETTER REGARDING
Filed: May 20, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 09299.0020-00	:	

This letter is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION" filed December 23, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment should be six hundred twenty-five (625) days, not six hundred twenty-seven (627) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred twenty-five **(625)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 25, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 627 days. Applicants point out that a reduction should be entered for the supplemental Information Disclosure Statement (IDS) filed July 9, 2008.

A review of the record confirms that a period of reduction should have been entered for the filing of the IDS on July 9, 2008. 37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, in response to the non-final Office action mailed April 7, 2008, on July 7, 2008, applicants filed an amendment. Thereafter, on July 9, 2008, applicants filed the IDS. The IDS was not expressly requested by the examiner and did not include a §1.704(d) statement. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 2 days should have been entered.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the notice of allowance is six hundred twenty-five (625) 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 Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. 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.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

PTA Calculations for Application: 11/133470			
Application Filing Date:	05/20/2005	PTO Delay (PTO):	627
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	625
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	04/06/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
37	09/25/2008	MAIL NOTICE OF ALLOWANCE			
36	09/24/2008	ISSUE REVISION COMPLETED			
35	09/23/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
34	09/23/2008	DOCUMENT VERIFICATION			
33	09/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	09/18/2008	NOTICE OF ALLOWABILITY			
28	07/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	08/12/2008	DATE FORWARDED TO EXAMINER			
26	07/07/2008	RESPONSE AFTER NON-FINAL ACTION			
25	07/07/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
24	07/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	04/07/2008	MAIL NON-FINAL REJECTION	627		-1
22	03/31/2008	NON-FINAL REJECTION			
21	10/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	10/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/10/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	01/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	10/20/2005	APPLICATION DISPATCHED FROM OIPE			
13	10/20/2005	APPLICATION IS NOW COMPLETE			
		PAYMENT OF ADDITIONAL FILING			

12	09/30/2005	FEE/PREEXAM			
10	09/30/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	07/06/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	06/29/2005	CLEARED BY L&R (LARS)			
5	06/11/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	06/08/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	05/31/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	05/20/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	05/20/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Satoh et al.	:	
Patent Number: 7,531,554	:	ON APPLICATION FOR
Issue Date: 05/12/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/133470	:	
Filing or 371(c) Date: 05/20/2005	:	
Attorney Docket Number: 09299.0020-00	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT, filed July 13, 2009. Patentee requests that the determination of patent term adjustment be corrected from 644 days to 982 days. The petition is properly treated as an application for patent term adjustment under 37 CFR §1.705(d).

The application for patent term adjustment is **DISMISSED**.

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,531,544 with a patent term adjustment of 644 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 as interpreted by the ruling in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Specifically, Patentees assert an entitlement to a patent term adjustment of 982 days (646 days pursuant to 37 CFR 1.702(a) *plus* 357 days pursuant to 37 CFR 1.702(b) *less* 19 overlapping days *less* two days of applicant delay).

The 357-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on May 20, 2005, and issuing on May 12, 2009, three (3) years and 357 days later. Patentees assert that in addition to this 357-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 646 days. This 646-day period is the result of a period of delay of 627 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), and a period of delay of 19 days for the failure by the Office to issue the patent not later than four months after

the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to 37 CFR 1.702(a)(4).

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 May 12, 2009, the application was pending three years and 357 days after its filing date. The Office agrees that certain action was not taken within a specified time frame, and thus, the entry of a period of adjustment of 646 days is correct. At issue is whether patentees should accrue 357 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 646 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 357 days of delay in issuing the patent overlaps with the 646 days of examination delay under 37 CFR 1.702(a). 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-

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, May 20, 2005, to the date the patent issued on May 12, 2009. Prior to the issuance of the patent, 646 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 357 days for Office delay in issuing the patent overlap with the 646 days of Office examination delay. During that time, the issuance of the patent was delayed by 357 days, not 357 days + 646 days. The Office took 14 months and 627 days to issue a first Office action, and four months and 19 days to issue the patent after the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 646 days of Office examination delay and the time allowed within the time frames for processing and examination, the application issued three years and 357 days after its filing date. The Office did not delay 646 days and then delay an additional 357 days. Accordingly, 644 days of patent term adjustment was properly entered (646 days of Office delay – 2 days of Applicant delay), because the period of delay of 357 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 646 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 $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 M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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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Mail Date: 04/21/2010

Applicant	: Motohide Satoh	: DECISION ON REQUEST FOR
Patent Number	: 7531554	: RECALCULATION of PATENT
Issue Date	: 05/12/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,470	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **982** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 Application of	:
Satoh et al.	:
Serial No.: 11/133,471	: PETITION TO MAKE SPECIAL
Filed: May 20, 2005	:
Attorney Docket No.: 09299.0021-00	:

This is in response to applicants' petition filed July 26, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to the HIV. The $130.00 petition fee as required by 37 CFR 1.17(h) was received.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

In re Application of	:	
Satoh et al.	:	
Application No. 11/133,471	:	ON APPLICATION FOR
Filed: May 20, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
09299.0021-000	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT—PRE-GRANT filed on August 10, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 310 days, not 0 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

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

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). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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

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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.

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **dismissed**.

On May 8, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 0 days.

On August 10, 2009, the subject application for patent term adjustment was timely filed.[2]

Applicants assert that the period of reduction of 16 days for the filing of an Information Disclosure Statement (IDS) on April 14, 2006, 16 days after the filing of a reply on March 29, 2006, to a first Office action (restriction requirement) should be removed because "action on the merits had not started and the new information was supplied in sufficient time to be considered in the first action on the merits."

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Applicants are incorrect. It is undisputed that a reply was filed on March 29, 2006 in response to the restriction requirement. It is also undisputed that the IDS filed on April 14, 2006, was filed 16 days after the filing of the reply to the restriction requirement. Further, the IDS was not expressly requested by the examiner and did not include a § 1.704(d) statement. Accordingly the 16 day reduction is warranted and will not be removed.

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[2] Office records indicate that the issue fee was paid on August 10, 2009.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 0 days.

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 Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
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In re Patent No. 7,635,704	:	DECISION ON REQUEST
Satoh et al.	:	FOR
Issue Date: 12/22/2009	:	RECONSIDERATION OF
Application No. 11/133471	:	PATENT TERM ADJUSTMENT
Filed: 05/20/2005	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
09299.0021-00	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 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 five hundred twenty (520) days. For the reasons stated below, this petition is treated as a petition requesting 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 two hundred thirty-seven (237) 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 two hundred thirty-seven (237) days is **GRANTED to the extent indicated herein.**

Petitioners assert, in pertinent part, that the period of adjustment pursuant to 37 CFR 1.702(b) should not be reduced for the filing of the Notices of Appeal, filed on May 4, 2007, and December 17, 2008, respectively, because in neither instance did

jurisdiction of the application pass to the Board, nor were the issues on appeal reviewed by the Board.

Petitioner's argument has been considered, but is not persuasive. 37 CFR 1.703(b)(4) states that:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: 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.

It is undisputed that on May 4, 2007, a Notice of Appeal was filed, and that on September 20, 2007, an Office action under 35 U.S.C. 132 was mailed. It is also undisputed that on December 17, 2008, a Notice of Appeal was filed, and that on May 8, 2009, a notice of allowance under 35 U.S.C. 151 was mailed. Accordingly, a reduction is warranted for each period under 37 CFR 1.703(b)(4).

Accordingly, as to the "B" delay period, the over three year period pursuant to 37 CFR 1.702(b) does not include 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. See 37 CFR 1.703(b)(4).

On May 4, 2007, a Notice of Appeal was filed. On September 20, 2007, 140 days after the filing of the Notice of Appeal, a non-final Office action was mailed. On December 17, 2008, a Notice of Appeal was filed. On May 8, 2009, 143 days after the filing of the Notice of Appeal, a notice of allowance was mailed. Accordingly, 283 (140 + 143) days must be excluded from the 581 day period beginning on the day after the date that is three years after the date on which the application was filed and ending on the date the patent issued. Considering the 12 overlapping days beginning on the day after the date four months after the issue fee was paid and ending on the date the patent issued, the period of adjustment is 286 ((581 - 283) - 12 overlap) days.

The patent term adjustment is revised to 237 days (44 days Office delay + 298 (581 - 283) days over three year delay - 12 days overlap - 93 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, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of 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 thirty-seven (237)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,635,704 B2

DATED : **December 22, 2009** **DRAFT**

INVENTOR(S) : Satoh 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 488 days.

Delete the phrase "by 488 days" and insert – by 237 days--

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Marco Winter	: DECISION ON REQUEST FOR
Patent Number	: 7653656	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,479	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **284** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of :
Andrew L. Wu :
Application No. 11/133,493 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 249212033000 : FROM RECORD
:

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 24, 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 Robert A. Saltzberg and all attorneys/agents of record have been revoked by the assignee of the patent application on April 15, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James P. Broder
Roeder & Broder, LLP
9915 Mira Mesa Boulevard, Suite 300
San Diego, CA 92131

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/133,493	05/19/2005	Andrew L. Wu	249212033000

CONFIRMATION NO. 9088

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

POWER OF ATTORNEY NOTICE

OC000000035691540

Date Mailed: 04/27/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/15/2009.

- 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).

/kainabinet/

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

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Paper No.

Schlumberger K.K.
c/o Karen Singh
Intellectual Property Counsel
2-2-1 Fuchinobe
Sagamihara-shi, Kanagawa-ken
229-0-006
JAPAN

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of :
Haheim et al. : DECISION ON PETITION
Application No. 11/133,508 :
Filed: May 20, 2005 :
Atty Docket No. 074375.045702 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 24, 2006.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed October 20, 2005. The Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply having been received and no extensions of time obtained, the above-identified application became abandoned on January 21, 2006. A courtesy Notice of Abandonment was mailed on June 2, 2006.

In response, applicants filed the instant petition. The petition includes the reply in the form of a continuing application, payment of the petition fee and the required statement of unintentional delay. Petitioner seeks revival solely for continuity purposes.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application received August 24, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

NOVARTIS VACCINES AND
DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

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APR 23 2010

OFFICE OF PETITIONS

Applicant: Wang, et al.	: ON PETITION
Issue Date: Nov. 18, 2008	: 37 CFR 1.705(d)
Application No: 11/133,509	
Patent No. 7,452,996	: REQUEST FOR RECON
Filed: May 19, 2005	
Attorney Docket: 22375.0002	: ADJUSTMENT

This is a decision on the petition filed on January 9, 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 ninety-four (794) 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 seven hundred and ninety-four (794) 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 **seven hundred and ninety-four (794)** 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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,452,996 B2

DATED : November 18, 2008 **Draft**

INVENTOR(S) : Wang, 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 (794) days

Delete the phrase "by 611 days" and insert – by 794 days--

Day : Friday
Date: 4/23/2010

PALM INTRANET

Time: 13:42:25

PTA Calculations for Application: 11/133509			
Application Filing Date:	05/19/2005	PTO Delay (PTO):	611
Issue Date of Patent:	11/18/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	794
PTO Delay Adjustment:	183		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	04/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	183		
40.5	10/29/2008	PTA 36 MONTHS			
40	11/18/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
39	10/23/2008	EXPORT TO FINAL DATA CAPTURE			
38	10/22/2008	FINISHED INITIAL DATA CAPTURE			
37	10/22/2008	DISPATCH TO FDC			
36	10/01/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
35	09/26/2008	ISSUE FEE PAYMENT VERIFIED			
34	09/26/2008	ISSUE FEE PAYMENT RECEIVED			
33	08/15/2008	EXPORT TO INITIAL DATA CAPTURE			
32	08/13/2008	MAIL NOTICE OF ALLOWANCE			
31	08/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	08/11/2008	NOTICE OF ALLOWABILITY			
29	06/30/2008	DATE FORWARDED TO EXAMINER			
28	06/12/2008	RESPONSE AFTER NON-FINAL ACTION			
27	03/21/2008	MAIL NON-FINAL REJECTION	611		-1
26	03/19/2008	NON-FINAL REJECTION			
25	10/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	12/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	12/20/2005	REFERENCE CAPTURE ON IDS			
20.7	12/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

20	12/20/2005	FILED			
19	11/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	11/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
17.7	10/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	08/04/2005	APPLICATION RETURN FROM OIPE			
15	08/04/2005	APPLICATION IS NOW COMPLETE			
14	08/04/2005	APPLICATION RETURN TO OIPE			
13	08/03/2005	APPLICATION DISPATCHED FROM OIPE			
12	08/03/2005	APPLICATION IS NOW COMPLETE			
11	07/25/2005	ADDITIONAL APPLICATION FILING FEES			
10	07/25/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	06/16/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	06/13/2005	CLEARED BY L&R (LARS)			
4	06/01/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	06/01/2005	CASE CLASSIFIED BY OIPE			
2	05/29/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/19/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 04/20/2010

Applicant	: William Everett Gardner	: DECISION ON REQUEST FOR
Patent Number	: 7620359	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of :
Scott P. Lockledge, et al. :
Application No. 11/133,530 :
Filed: May 20, 2005 :
Attorney Docket No. LUTE-0002 :

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 January 22, 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 copy of applicant's drivers license. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1797 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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

Mail Date: 04/26/2010

Applicant	: Shean-Guang Chang	: DECISION ON REQUEST FOR
Patent Number	: 7606855	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/133,567	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1129** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

In re Patent No. 7,620,977	:	DECISION ON
Breeden, et al.	:	REQUEST FOR
Issue Date: November 17, 2009	:	RECONSIDERATION OF
Application No. 11/133,571	:	PATENT TERM ADJUSTMENT
Filed: May 20, 2005	:	and
Atty Docket No. ORACL-01624US0	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 19, 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-seven (1197)** 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-seven (1197) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred ninety-seven (1197)** days.

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

Shirene W. Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,620,977 B2

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : Breeden et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 938 days

Delete the phrase "by 938 days" and insert – by 1197 days--

28 FEB 2006

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MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of :
CYRIS, Rudy :
Application No.: 11/133,575 :
PCT No.: PCT/BE2003/000199 : **DECISION**
Int. Filing Date: 14 November 2003 :
Priority Date: 20 November 2002 :
Attorney Docket No.: 09997.0056USWO :
For: HIGH-OUTPUT HEATING DEVICE :

This decision is in response to the "Petition under 37 §1.181" [*sic*] filed via facsimile on 31 January 2006. This petition is treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 19 May 2005, applicant submitted papers for a patent application. The application was processed as a filing under 35 U.S.C. 111(a) by the Office.

On 18 July 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" requesting an oath or declaration and surcharge fee.

On 18 August 2005, applicant submitted a declaration and the required surcharge fee.

On 31 January 2006, applicant filed the subject petition requesting that the above-captioned application be identified as a national stage application of PCT/BE2003/000199.

DISCUSSION

The Office processed the above-captioned application as a U.S. utility application pursuant to 35 U.S.C. 111(a). Applicant argues that it was filed as a national stage application under 35 U.S.C. 371.

A review of the application file shows that applicant submitted a transmittal letter. Application Data Sheet, and an executed declaration on 19 May 2005. All these documents identified that the subject application was filed pursuant to 35 U.S.C. 371. There were no other conflicting instructions.

This is sufficient for a national stage filing.

DECISION

For the reasons noted above, applicants' petition under 37 CFR 1.181 is **GRANTED**.

It is determined that the Office erroneously processed this application under 35 U.S.C. 111(a).

This application is being forwarded to the National Stage Processing for continued processing as a national stage application of PCT/BE2003/000199 filed 14 November 2003 and to remove all references that this application was filed under 35 U.S.C. 111(a). All fees will be corrected as authorized.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Merchant & Gould P.C.
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215

A Professional Corporation

Merchant & Gould

An Intellectual Property Law Firm

Fax Transmission | January 31, 2006

TO: Mailstop PCT

Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450	FROM: Gregory A. Sebald OUR REF: 09997.0056USWO TELEPHONE: 612-336-4728

Total pages, including cover letter: 3

PTO FAX NUMBER 1-571-273-0459

If you do NOT receive all of the pages, please telephone us at 612.332.5300, or fax us at 612.332.9081.

Title of Document Transmitted: PETITION UNDER 37 § 1.181
Applicant: CYRIS
Serial No.: 11/133575
Filed: May 19, 2005
Group Art Unit: 3747
Our Ref. No. 09997.0056USWO
Confirmation No. 9156

RECEIVED
31 JAN
Legal Staff
International Division

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By: _____
Name: Gregory A. Sebald
Reg. No.: 33,280

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Natalie Berland

_____
Signature

January 31, 2006
Date

PATENT

S/N 11/133575

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	CYRIS	Examiner:	Unknown
Serial No.:	11/133575	Group Art Unit:	3747
Filed:	May 19, 2005	Docket No.:	09997.0056USWO
Title:	HIGH-OUTPUT HEATING DEVICE		

CERTIFICATE UNDER 37 CFR 1.6(d):
I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on January 31, 2006

By: Natalie Berland
Name: Natalie Berland

PETITION UNDER 37 § 1.181

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

Dear Commissioner:

This application was filed on May 19, 2005 as a 35 U.S.C. 371 of PCT application WO 2004/046615 A1. All documents filed including the Transmittal; Application Data Sheet, Form 1390, Combined Declaration and Power of Attorney, Preliminary Amendment, and Information Disclosure Statement, clearly designated the application to be a PCT National Stage application. In addition, each of these documents stated that the application was to be delivered to Mailstop PCT. Also, this application was filed within the 30-month date of May 20, 2005. Subsequently this application was delivered to the Office of Initial Patent Examination and assigned Serial No. 11/133575 which did not designate it as an application under 35 USC 371. The applicants hereby request that this application be transferred to PCT Office and designated as a National Stage Application.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicants' primary attorney-of record, Gregory A. Sebald (Reg. No. 33,280), at (612) 336-4728.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
(612)332.5300

23552
PATENT TRADEMARK OFFICE

Dated: 1/31/06

By: _____
Gregory A. Sebald
Reg. No.: 33,280

GAS/ncb

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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OFFICE OF PETITIONS

In re Application of
Simon L. Howes
Application No. 11/133,583
Filed: May 5, 2005
Attorney Docket No. NU-114(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 CFR § 1.36(b), filed June 17, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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400 ALTLANTIC STREET, 13TH FLOOR
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OFFICE OF PETITIONS

In re Application of :
Simon L. Howes :
Application No. 11/133,583 : DECISION ON PETITION
Filed: May 20, 2005 : TO WITHDRAW
Attorney Docket No. NU-114(US) : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 14, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 47670 has been revoked by the assignee of the patent application on August 12, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/133,583	05/20/2005	Simon L. Howes	NU-114(US)

CONFIRMATION NO. 9223

POA ACCEPTANCE LETTER

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Date Mailed: 09/28/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2009.

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

/jlburke/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/133,583	05/20/2005	Simon L. Howes	NU-114(US)

CONFIRMATION NO. 9223

POWER OF ATTORNEY NOTICE

47670
KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD, CT 06901

Date Mailed: 09/28/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2009.

- 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).

/jlburke/

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

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200 PUBLIC SQUARE
CLEVELAND OH 44114

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Bieszczad, et al.	:	
Application No. 11/133,604	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. 29417-1	:	

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

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed February 9, 2006. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, no reply having been received, the application became abandoned on May 10, 2006. A Notice of Abandonment was mailed on September 6, 2006.

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

The matter is being forwarded to Group Art Unit 3765 for consideration of the Amendment filed November 22, 2006.

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
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MARILYN V. WILSON
4066 ROOKWOOD AVE.
P.O. BOX 88121
INDIANAPOLIS IN 46208

MAILED

MAR 19 2009

OFFICE OF PETITIONS

In re Application of :
Marilyn Virginia Wilson et al. :
Application No. 11/133,606 : ON PETITION
Filed: August 2, 2005 :
Title of Invention: **BOT AND BABY BOT** :

This is a decision on the petition to withdraw the holding of abandonment, filed February 17, 2009 which is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 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 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

A Final Office Action mailed November 27, 2007 required the filing of a response within three months (February 27, 2008) or, with up to a three month extension of time, a response could have been filed not later than May 27, 2008. A response filed December 26, 2007 did not place the application in condition for allowance. Petitioner was notified of such by way of Advisory Action mailed September 25, 2008. Therefore, no proper response having been timely filed, the application became abandoned February 28, 2008. Accordingly, a Notice of Abandonment was mailed October 30, 2008.

Petitioner argues that responses were filed in May 2007, argues lack of knowledge as to when the responses were due, and further that petitioner did not understand that the application was abandoned.

Petitioner is advised that the issue is not whether or not a response was filed May 2007 as that response is of record. Rather, the application is abandoned because while a response to the Final Office Action of November 27, 2007 was filed, it was not a proper reply.

In view of the above, and since the arguments presented do not substantiate a finding

that a proper and timely response was filed to the November 27, 2007 Final Office Action, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

It is understood that petitioner is a pro se applicant, but petitioner is still responsible for the proper prosecution of his application. The format and wording of the papers filed are that of an inexperienced petitioner. In further petitioning, there are numerous resources available to petitioner, as to the others who have chosen this path of prosecution, to obtain the necessary information to properly prosecute the application before the Office. The services of a registered attorney or agent to help the petitioner understand the requirements for responding to the office action as well as the petitioning process are recommended, although not required.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) 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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The 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

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

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of
Olsen
Application No. 11/133,609
Filed: July 11, 2005
Attorney Docket No. 200501619-1

Decision on Petition

This is a decision on the petition filed September 8, 2005 to accord the above-identified application a filing date of May 20, 2005.

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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Application papers were deposited on May 20, 2005.

On June 16, 2005, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

On July 11, 2005, petitioner submitted a response to the June 16, 2005. The response stated, "In response to the Notice . . . we submit . . . (11) Sheets of Formal Drawings and a newly executed Declaration . . . covering these items."

The application was accorded a filing date of July 11, 2005.

Petitioner now requests the application be accorded a filing date of May 20, 2005.

The only evidence drawings were filed on May 20, 2005, is the recollection of the attorney and the fact that drawings are listed on the transmittal sheet.

All the evidence present in the file has been carefully considered, but is not persuasive that drawings were submitted with the original application.

Clearly petitioner intended to file drawings and petitioner believed drawings were filed. However, petitioner has failed to establish that drawings were actually filed.

While petitioner apparently believes that drawings were filed on May 20, 2005, the file of application No. 11,133,609[1] shows that drawings were not received, since no such drawings are

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

present in the file. An intent to file a complete application, and the belief that the application was complete, does not constitute sufficient evidence to establish that the actual application, as filed with the PTO, was complete. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, the copying machine, or another reason. The best evidence of what was filed on May 20, 2005 is the application file itself. The last portion of MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office . . . The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence [such as a] postcard receipt . . . ." 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.

Declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations, as in this case, are usually made months after the actual events recited. It is also noted that the attorney signing the petition appears not to be the party who mailed the application. The Certificate of Mailing is signed by another individual. The drawings may have been lost or misplaced after the application papers left the attorney's possession.

The evidence has been considered. The evidence submitted does not have more probative value than the official government record of what was actual received in the USPTO on May 20, 2005. Therefore, the petition must be dismissed.

The instant petition illustrates the reason the USPTO established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers 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.[2]

A supplemental declaration must be filed:

The declaration filed on July 11, 2005, refers to the application as deposited on May 20, 2005, as application no. 11/133,609 and does not refer to the 11 sheets of drawings since the drawings were not included with the application papers deposited on May 20, 2005. Accordingly, a supplemental oath or declaration by the inventors must be supplied. The supplemental oath or declaration must identify the specification to which it is directed (preferably by reference to the above-identified Application Number and the filing date- July 11, 2005) and must clearly refer to the addition of new subject matter. For example, since petitioner is seeking to add drawings, a proper declaration might include language such as, "the specification of which was filed on May 20, 2005, as Application Number 11/133,609, and the drawings field on July 11, 2005. I hereby declare the subject matter of the application papers filed on May 20, 2005, and the drawings filed on July 11, 2005, was part of the invention and was invented before the filing date of the original application, above identified for such invention."

The supplemental declaration must be accompanied by the surcharge required under 37 CFR 1.16(e).

---

[2] See section 503, Manual Of Patent Examining Procedure (MPEP 503).

The supplemental oath or declaration is required before payment of the issue fee or any earlier time set by the examiner.

The fee for a filing date petition is $400. Petitioner submitted $130. Therefore, $270 has been charged to petitioner's deposit account.

A copy of drawing sheet 11 is attached. Petitioner may wish to note that it appears a portion of the Figure was omitted. Petitioner may wish to file an amendment to correct Figure 7C.

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachment: Drawing sheet 11 containing Figure 7C

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60 MIDDLETOWN AVENUE
NORTH HAVEN CT 06473

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In re Application of	:	
Henry HOLSTEN et al.	:	
Application No. 11/133,618	:	DECISION ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. H-US-00232 (203-4475)	:	

This is a decision on the 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 November 09, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed August 07, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 04/30/2010

Applicant	: Chandrashekhar Appanna	: DECISION ON REQUEST FOR
Patent Number	: 7613118	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/133,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: 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.

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CAMPBELL CA 95008

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of
Biskeborn
Application No. 11/133,625
Filed: May 19, 2005
Docket No.: SJO9-2001-0033US2

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 17, 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 Office communication mailed January 9, 2007. The Office communication set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed July 25, 2007.

Petitioner asserts that a response to the Office communication was timely submitted February 9, 2007.

The original response submitted February 9, 2007 has been located in the application file and was timely submitted.

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 3700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of
Donald Ray Cooley Jr. et al
Application No. 11/133,638
Filed: May 20, 2005
Attorney Docket No. CYD 302

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and terminal disclaimer/fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed January 17, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3689 for appropriate action by the Examiner in the normal course of business on the reply received April 17, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE , CA 92614

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APR 08 2008

OFFICE OF PETITIONS

In re Application of :
Wen-Jian Lin, et al. :
Application No.: 11/133,641 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No.: QCO.099A :

This is a decision on the petition, filed April 7, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 2812 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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CONLEY ROSE, P.C.
David A. Rose
PO BOX 3267
HOUSTON, TX 77253-3267

Mail Date: 04/21/2010

Applicant	: Gregory N. Gilbert	: DECISION ON REQUEST FOR
Patent Number	: 7603897	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **364** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Paper No.

RYNDAK & SURI LLP
200 W MADISON STREET
SUITE 2100
CHICAGO, IL 60602

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APR 7 2006
OFFICE OF PETITIONS

In re Application of	:	
Ubidia et al.	:	DECISION NOTING JOINDER
Application No. 11/133,650	:	OF INVENTOR AND PETITION
Filed: May 20, 2005	:	UNDER 37 C.F.R. § 1.47 MOOT
Atty Docket No. 40300-10732	:	

This is in response to the "PETITION TO ACCEPT THE DECLARATION OF A CO-INVENTOR HAVING FIRST HAND KNOWLEDGE ON BEHALF OF THE NON-SIGNING INVENTOR (37 CFR 1.47(a))", filed September 26, 2005. This decision is made in light of the supplemental response filed January 23, 2006.

The above-identified application was filed on May 20, 2005, without an executed oath or declaration. In response to a "Notice to File Missing Parts of Application" mailed June 22, 2005, applicants, on September 26, 2005, filed the initial petition under §1.47(a) and declaration executed by joint inventors Ubidia and Tauer on behalf of themselves and on behalf of non-signing inventor Black. However, before a decision was rendered on the petition, on January 23, 2006, applicants filed a declaration executed by inventor Black.

The declarations have been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is

considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application will be examined in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **4/24/09**

TO SPE OF : ART UNIT **2189 (2100)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/133,661** Patent No.: **7,516,240**

Attn: Kenneth Lo

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Hyung S SOUGH/ — SPE

2188 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **4/24/09**

TO SPE OF : ART UNIT **2189 (2100)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/133,661** Patent No.: **7,516,240**

Attn: Kenneth Lo

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Hyung S SOUGH/ **2188**
SPE **Art Unit**

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www.uspto.gov

Thomas S. Baker, Jr.
1371 West 3rd Avenue
Columbus, OH 43212

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
George Jefferson :
Application No. 11/133,662 :
Filed: May 20, 2005 :
Attorney Docket No. M :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Thomas S. Baker, Jr., the sole attorney of record.

Thomas S. Baker, Jr. has been withdrawn as attorney of record.

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: **George Jefferson**
255A Portage Lakes Drive
Akron, OH 44319

cc: **Emery Leuchtag**
c/o Maguire and Schneider LLP
250 Civic Drive, Suite 200
Columbus, OH 43215

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/133,662	05/20/2005	George Jefferson Myers	M&S001

CONFIRMATION NO. 1478

Thomas S. Baker, Jr.
1371 West 3rd Avenue
Columbus, OH 43212

OC000000024936090

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2006.

- 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.

Jerri Williams

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

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EMERY LEUCHTAG
C/O MAGUIRE AND SCHNEIDER LLP
250 CIVIC CENTER DRIVE, SUITE 200
COLUMBUS, OH 43215

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
George J. MYERS :
Application No. 11/133,662 : DECISION ON PETITION
Filed: May 20, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **M&S001** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 2, 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 February 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 an amendment, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

The revocation of power of attorney with new power of attorney submitted with the petition on December 17, 2009 could not be accepted as it is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document and statement under 37 CFR 3. 73 (b) 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3753 for appropriate action by the Examiner in the normal course of business on the reply received December 17, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **JOHN J. CUNNIFF**
HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA, SUITE 300
AKRON, OH 44311-1076

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EMERY LEUCHTAG
C/O MAGUIRE AND SCHNEIDER LLP
250 CIVIC CENTER DRIVE, SUITE 200
COLUMBUS, OH 43215

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
George J. MEYERS :
Application No. 11/133,662 :
Filed: May 20, 2005 :
Attorney Docket No. **M&S001** :

DECISION ON REQUEST FOR REVOCATION OF POWER 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 December 17, 2009.

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 no statement under 3.73(b) was filed. 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 December 17, 2009 does not include one of the above two options.

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

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

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

cc: **JOHN J. CUNNIFF**
HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA, SUITE 300
AKRON, OH 44311-1076

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/21/2010

Applicant	: Vyacheslav Birman	: DECISION ON REQUEST FOR
Patent Number	: 7591562	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,668	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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OCT 2 9 2008

OFFICE OF PETITIONS

In re Application of :
Stephen Christopher Kitson, et. al. :
Application No. 11/133,672 : DECISION ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. 200500164 US :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 2, 2008. Accordingly, the date of abandonment of this application is 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 the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

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

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

Brian Brown
Petitions Examiner
Office of Petitions

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/20/2010

Applicant	: Dominique Jean-Pierre Mabire	: DECISION ON REQUEST FOR
Patent Number	: 7629468	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,678	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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J. BENNETT MULLINAX, LLC
P.O. BOX 26029
GREENVILLE, SC 29616-1029

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Dale CROWE, et al :
Application No. 11/133,687 : DECISION ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. CRW-1 :

This is a decision on the petition, filed April 6, 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**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 17, 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 under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 18, 2008.

Petitioner asserts that the Office action dated July 17, 2008 was not received.

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

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

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

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

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3644 for re-mailing the Office action of July 17, 2008. The period for reply will run from the mailing date of the Office action.

Thurman Page
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh, PA 15213

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AUG 29 2006
OFFICE OF PETITIONS

In re Application of :
Garth D. Ehrlich, et. al. :
Application No. 11/133,690 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. AHS-20 CONT :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 26, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 16, 2006.

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

The Office also acknowledges receipt of $30 for ten (10) advance order soft copies.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Daniel M. Doerer et al. :
Application No. 11/133,700 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No.: **BROW 9132** :

This decision is in response to the petition filed July 23, 2007, to withdraw the holding of abandonment for the above-identified application under 37 CFR 1.181.

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

The application was held abandoned for failure to timely submit a timely response to the non-Final Office Action mailed November 29, 2006, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed July 11, 2007.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response which included a one month extension of time request and bears a certificate of mail dated March 29, 2007, pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records does not reveal that the response was filed but, the evidence submitted corroborates a timely response to the restriction requirement.

Accordingly, the Notice of Abandonment mailed July 11, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2875 for appropriate action on the amendment filed March 29, 2007, a copy of which was submitted with the instant 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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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Gueorgui B. Chkodrov	: DECISION ON REQUEST FOR
Patent Number	: 7627544	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,701	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **194** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 : Gueorgui B. Chkodrov
Patent Number : 7627544
Issue Date : 12/01/2009
Application No: 11/133,701
Filed : 05/20/2005

: 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 **223** 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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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Tae-Woong Koo et al. :
Application No. 11/133,707 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 070702003412 : FROM RECORD
:

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

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

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

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

There are no outstanding office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,137	03/16/2005	Randy L. Booth	BOOT-002

CONFIRMATION NO. 8316

OC000000024502471

65215
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

Date Mailed: 06/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2007.

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

Michelle R. Eason

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

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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
11/133,737	05/20/2005	3753	500	60173.0002US01	4	20	3

CONFIRMATION NO. 9772

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

CORRECTED FILING RECEIPT

OC000000017646045

Date Mailed: 12/13/2005

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

Applicant(s)

John Andrew Davidoff, Phoenix, AZ;

Power of Attorney: The patent practitioners associated with Customer Number **23552**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/20/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/133,737

Projected Publication Date: 11/23/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Systems and methods for detecting and preventing fluid leaks

Preliminary Class

137

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SUITE 1010
1720 PEACHTREE STREET N.W.
ATLANTA, GA 30309

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Davidoff, John Andrew	:	DECISION ON PETITION
Application No. 11/133,737	:	TO WITHDRAW
Filed: May 20, 2005	:	FROM RECORD
Attorney Docket No. 60173.0002US01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2008. This is also a decision on the petition under 37 CFR 1.182 to expedite the decision.

The request is **APPROVED**.

The petition to expedite is also **GRANTED**.

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 Jodi L. Hartman on behalf of all attorneys associated with Customer Number 53377. All attorneys/agents associated with the above Customer Number 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 John Davidoff at the address indicated below.

There is an outstanding Office action mailed December 10, 2007 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JOHN DAVIDOFF
2718 W. MERCER LANE
PHOENIX, AZ 85029

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MESCHKOW & GRESHAM, P.L.C.
5727 N. 7TH STREET, SUITE 409
PHOENIX AZ 85014

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SEP 15 2008

In re Application of :
Davidoff, John Andrew :
Application No. 11/133,737 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. 2339-010 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 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 a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

A Notice of Acceptance of Power of Attorney is enclosed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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BOSTON MA 02210-2206

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Herz et al.	:	
Application No. 11/133,759	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. P0813.70001US03	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 1, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2623 for expedited prosecution.

Liana Chase for
David Bucci
Petitions Examiner
Office of Petitions

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Paper No. None

TOWNSEND AND TOWNSEND AND CREW, LLP
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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Chrishan Surendran Samuel et al. :
Application No. 11/133,763 :
Filing Date: May 21, 2005 :
Attorney Docket Number: 087520-000000US :
Title: PREVENTION OF FIBROSIS FOLLOWING CARDIAC INJURY :

DECISION ON PETITION UNDER 37 C.F.R. §1.183

Background

This is a decision on the petition filed October 31, 2005, pursuant to 37 C.F.R. §1.183, requesting that 37 C.F.R. §1.10 be waived so that Petitioner may receive a filing date which precedes the date on which his application was mailed.

The application was deposited on May 21, 2005 along with a Utility Application Transmittal sheet which bears Express Mail label EV606078565US, a declaration, claims, an abstract, drawings, and an Application Data Sheet (ADS).

With this petition, Petitioner has submitted the petition fee and has indicated that on May 20, 2005, at 5:55 PM, a courier who is employed by Petitioner's law firm (identified only as "Mr. R.") left the firm with the above-identified application in his bag.

It is noted that a statement from this Mr. R. has not been provided. No statement form an individual having firsthand knowledge of the underlying events has been provided.

Mr. R. boarded the Bay Area Rapid Transit (BART) with the intent of traveling to the post office, so that the application could be mailed via first class mail, so as to secure a filing date of May 20, 2005. Unfortunately Mr. R. fell asleep while on the train. He awoke as the train conductor announced Mr. R's stop. Mr. R "became distracted[1]" by an unspecified distraction, and exited the train. After the doors had closed, Mr. R realized that he has left his bag on the seat when a woman who had been sitting adjacent to him alerted him that he had forgotten to gather his belongings before he departed[2].

Mr. R then proceeded to find a BART representative, and relayed his predicament to the same. The representative contacted BART stations further on down the line, and explained that BART would contact Mr. R. once the bag was turned into their "lost and found" collection and distribution service.

At this point, Mr. R. is alleged to have lost control of his faculties. Petitioner has included a psychological report, which confirms this allegation, in that one Dr. Jules Bernstein has concluded that Mr. R. suffered an "acute panic attack" after speaking with the BART representative[3].

Mr. R. then walked from the BART station where he disembarked from the train to the BART station which houses the lost and found office.

Petitioner comments that this panic attack "prevented him (Mr. R) from employing any rational means for ensuring that the subject application be timely filed[4]." However, on a Friday night after the close of business hours with him on the ground and his bag on the train, proceeding to the lost and found office seems to be the best course of action he could have undertaken at that point. It is not clear what alternate course of action Petitioner believes Mr. R. should or would have taken, had his mind not been "overwhelmed with confusion, disorientation and panic[5]."

45 minutes after departing the original BART station, Mr. R. arrived at the lost and found office and learned that the bag had not been turned in. As his house keys were in the bag along with the application, Mr. R. walked to a friend's home, since the friend was in possession of a spare key to Mr. R's dwelling,

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1 Petition, page 4.
2 Bernstein report, page 3.
3 Bernstein report, page 4.
4 Petition, page 4.
5 Id.

arriving at said home between 9:30 and 10:00. At 11:45, his friend arrived, retrieved the spare set of keys, and Mr. R. arrived at his own dwelling at 12:15 to find a message on his answering machine from BART, confirming that the bag had been located.

Petitioner learned of these events around 9:00 AM the following day. The application papers were returned to Petitioner at this time, they were re-dated, and filed with the USPS on May 21, 2005.

Applicable Statues and Rules

35 U.S.C. 21(a)

The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

35 U.S.C. 111 (a)(4)

FAILURE TO SUBMIT.-Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

37 C.F.R. § 1.10(a)(1)

Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

§ 1.53 Application number, filing date, and completion of application.

(a) Application number. Any papers received in the Patent and Trademark Office which purport to be an application for a patent will be assigned an application number for identification purposes.

(b) Application filing requirements - Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description

pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and § 1.78(a).

(1) A continuation or divisional application that names as inventors the same or fewer than all of the inventors named in the prior application may be filed under this paragraph or paragraph (d) of this section.

(2) A continuation-in-part application (which may disclose and claim subject matter not disclosed in the prior application) or a continuation or divisional application naming an inventor not named in the prior application must be filed under this paragraph.

§ 1.183 Suspension of rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).
[47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

Analysis

When Petitioner retained the courier to deliver the application to the USPS for him, an agency was created when Petitioner manifested an intention that the other should act on his behalf, and the petitioner consented to do the same[6]. As such, the actions of an agent are imputed to his principal, and Petitioner is thus responsible for the actions of his courier.

In order to submit a grantable petition under 37 CFR 1.183, Petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner has not established that either condition exists in this case.

Petitioner has requested that 37 C.F.R. §1.10 be waived. Petitioner has not specified which portion of the rule he wishes to have waived. Since Petitioner wishes to secure May 20, 2005

6 Harold Gill Reuschlein & William A. Gregory, The Law of Agency and Partnership §12 at 32 (2d ed. 1990).

as the filing date - not the date on which the application was deposited with the USPS but rather the date he *intended*[7] it to be deposited with the USPS. As such, the Office will presume that it is 37 C.F.R. §1.10(a)(1) which he wishes to have waived.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The application was not deposited with the USPS because the courier fell asleep on a train and forgot to gather his belongings before departing the train. There is nothing extraordinary about this situation. Had the courier, an agent of the Petitioner, remained awake and retained dominion over his possessions, the loss would not have occurred. Remaining awake and remembering to take his items with him were circumstances which were entirely within his control, and the dispossession of the bag containing the application which resulted in the failure to secure the desired filing date for this application could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence[8].

Furthermore, since the PTO did not cause or contribute to Petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief[9]. It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR §1.183[10]. Rather, as petitioner failed to properly deposit his application with the USPS in accordance with the requirements of 37 C.F.R.

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7 Petition, page 6.

8 U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983).

9 See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

10 See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule).

§1.10(a)(1), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

It follows that Petitioner's circumstances are not extraordinary, and justice fails to require waiver of rule 37 C.F.R. §1.10(a).

Petitioner has cited to Sturzinger v. Commissioner of Patents, 181 USPQ 436 (DC DC 1974).

Sturzinger involves an applicant who deposited an application with the USPS on March 23, 1971[11]. As strange as it may seem, the "mail of the law firm, posted March 23, 1971, including plaintiff's application, was stolen while in the custody of the United States Postal Service (emphasis added)[12]."

On April 13, 1971, a copy of the application (including a photocopy of the declaration) was deposited in the Office. On July 12, 1971, an original declaration was deposited with the Office. The Patent Office assigned the application a filing date of July 12, 1971, and the Plaintiff appealed, seeking the date of April 13, 1971, the date on which a photocopy of the original application was deposited with the Office.

The court awarded the Plaintiff a filing date of April 13, 1971.

It is noted that in Sturzinger, the applicant deposited an application with the USPS, and the theft occurred while the package containing the application was under the exclusive possession and control of the USPS. With the present application, the package was lost by the courier before the USPS ever gained possession of the same. Petitioner, his courier, at least one passenger on the train, the BART lost and found department, and possibly the train conductor were each in possession of the application on May 20, 2005, but the USPS was not.

It is further noted that Petitioner would have the Office assign the date on which he intended to file the application with the USPS as his filing date. However, in Sturzinger, the Plaintiff neither sought nor received the date of March 23, 1971 as his filing date, the date on which he intended to file the application with the Office. The date which the Plaintiff both sought and received was the date on which the package was received by the PTO. With the present application, the date which the application received as a filing date was the date on

11 Sturzinger at 437.

12 Sturzinger, footnote 1.

which the application was deposited with the PTO (pursuant to 37 C.F.R. §1.10(a)(1), filing an application with the USPS will be considered as filed with the USPTO if the Applicant utilizes the "Express Mail Post Office to Addressee" service of the USPS). As such, it would appear that the PTO accorded Petitioner the same treatment by the PTO as the Court awarded the Plaintiff in the case cited by Petitioner, however Petitioner would have the Office provide a disparate filing practice.

On page 5 of the petition, Petitioner has cited the following text that can be found on page 437:

> the justifiably unexpected theft or loss of the original documents from the mails should not be permitted to prejudice the rights of a plaintiff not himself culpable

It does not appear that the applicant in Sturzinger was culpable for the theft which occurred on USPS property after the applicant had surrendered his package to the USPS. With the present application, the package was lost because Petitioner' courier fell asleep and forgot to take his bag with him when he awoke. As developed above, the courier, an agent of the Petitioner, is answerable for his own actions[13].

On page 5 of the petition, Petitioner further cites to a portion of Sturzinger which is found on page 437 of the decision:

> It is equally clear that plaintiff's action in the circumstances manifests an intent to file on or before April 27, 1971 and that others, if there be such, will suffer no prejudice by the award of the April 13, 1971 filing date; that this date, in the light of the provisions of 5 U.S.C. 119, is critical; and that the plaintiff made every effort to comply by every means within his power. Thus the Court is led to the inescapable conclusion that he ought to be entitled to have his application assigned nunc pro tunc the critical date of April 13, 1971.

With his citation of the above paragraph however, Petitioner has replaced each of the different dates with the text "[the critical date]," which suggests that each of these dates is the same, and the Court awarded the Plaintiff the date on which he intended to file the application, which with Petitioner's set of facts, would be the day on which his agent left the application on the train.

This is not what is written in Sturzinger. As can be seen above, each of these dates are not the same date. In Sturzinger, the date on which the application was received was the date the Court

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13 It is noted in passing that page 4 of the Bernstein report makes it clear that Petitioner did not suffer from a panic attack until after the bag had been left on the train.

awarded as the filing date, not the date on which the applicant intended to file the application. Thus, the awarding of May 21, 2005 is in line with the reasoning of Sturzinger, and it follows that awarding a filing date of May 20, 2005 would not be in line with this decision to which Petitioner has cited.

In Sturzinger, the applicant intended to file his application on March 23, 1971, but the application was not filed with the PTO until April 13, 1971. The Court awarded the latter as the filing date. With the present application, Petitioner intended to file his application on May 20, 2005, but the application was not filed with the PTO until May 21, 2005. The PTO awarded the latter as the filing date.

Finally, *assuming arguendo* that an extraordinary situation exists such that justice requires the waiver of 37 C.F.R. 1.10(a)(1), Petitioner is reminded that the practice involving the awarding of a filing date is set forth by statute. The request to waive or suspend the requirements of statute pursuant to 37 CFR §1.183 is beyond the discretion or the authority of the Office[14].

35 USC 111(a)(4) conditions the filing date as "the date on which the specification and any required drawing are received in the Patent and Trademark Office." 35 USC 21(a) includes a deposit with the USPS via the USPS Express Mail service in the definition of "received in the Patent and Trademark Office."

The granting of Petitioner's request for a filing date of May 20, 2005 - the day before "the specification and any required drawing" were received in the PTO - would require the waiver of 35 USC 111(a)(4), and this cannot be done, for a Rule cannot be relaxed in contravention of any Law.

Conclusion

The petition is **DISMISSED**.

The application will retain a filing date of May 21, 2005.

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14 See A. F. Stoddard & Co. v. Dann, 184 U.S. App. D.C. 71, 564 F.2d 556, 1977 U.S. App. LEXIS 11815, 195 U.S.P.Q. (BNA) 97 (1977) ("Executive Branch agencies, such as the PTO, having the obligation to carry out their duties under their authorizing statutes, and if they would avoid an exercise of the powers of another Branch, must in almost every case, follow the strict provisions of the applicable statute.").

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Application of :
Chrishan Surendran Samuel et :
al. :
Application No. 11/133,763 : DECISION ON RENEWED PETITION
Filing Date: May 21, 2005 : UNDER 37 C.F.R. §1.183
Attorney Docket Number: 087520- :
000000US :
Title: PREVENTION OF FIBROSIS :
FOLLOWING CARDIAC INJURY :

Background

This is a decision on the renewed petition filed January 17, 2006, pursuant to 37 C.F.R. §1.183, requesting that 37 C.F.R. §1.10 be waived so that Petitioner may receive a filing date which precedes the date on which his application was mailed.

The application was deposited on May 21, 2005 along with a Utility Application Transmittal sheet which bears Express Mail label EV606078565US, a declaration, claims, an abstract, drawings, and an Application Data Sheet (ADS).

The original petition was submitted on October 31, 2005, and was dismissed via the mailing of a decision on November 18, 2005.

With the original petition, Petitioner indicated that on May 20, 2005, at 5:55 PM, a courier who is employed by Petitioner's law firm (identified only as "Mr. R.") left the firm with the above-identified application in his bag. Mr. R. boarded the Bay Area Rapid Transit (BART) with the intent of traveling to the post

office, so that the application could be mailed via first class mail, so as to secure a filing date of May 20, 2005. Mr. R. then fell asleep while on the train, and he awoke when the train approached his stop. Mr. R. then left the patent application on the seat of the train when he debarked. Mr. R. then suffered an acute panic attack, and Petitioner asserted that due to this panic attack, the courier was "not of sufficiently sound mind and judgment to ensure in any way that the application be filed by other means[1]."

Petitioner learned of these events the following morning, at which time the application papers were re-dated, and filed with the USPS on May 21, 2005.

Applicable Statues and Rules

35 U.S.C. 21(a)

The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

35 U.S.C. 111 (a)(4)

FAILURE TO SUBMIT.-Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

37 C.F.R. § 1.10(a)(1)

Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

§ 1.53 Application number, filing date, and completion of application.

(a) Application number. Any papers received in the Patent and Trademark Office which purport to be an application for a patent will be assigned an application number for identification purposes.

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1 Original petition, page 3.

(b) Application filing requirements - Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and § 1.78(a).

(1) A continuation or divisional application that names as inventors the same or fewer than all of the inventors named in the prior application may be filed under this paragraph or paragraph (d) of this section.

(2) A continuation-in-part application (which may disclose and claim subject matter not disclosed in the prior application) or a continuation or divisional application naming an inventor not named in the prior application must be filed under this paragraph.

§ 1.183 Suspension of rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).
[47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

Analysis

In order to submit a grantable petition under 37 CFR 1.183, Petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner has not established that either condition exists in this case.

It does not appear that Petitioner's renewed petition has addressed each of the points raised in the decision of November 18, 2005.

With the decision on the original petition, it was indicated that it was not clear what other action Petitioner would have had the courier undertake after he had left the application on the train:

> Petitioner comments that this panic attack "prevented him (Mr. R) from employing any rational means for ensuring that the subject application be timely filed[2]." However, on a Friday night after the close of business hours with him on the ground and his bag on the train, proceeding to the lost and found office seems to be the best course of action he could have undertaken at that point. It is not clear what alternate course of action Petitioner believes Mr. R. should or would have taken, had his mind not been "overwhelmed with confusion, disorientation and panic[3]."

With this renewed petition, it does not appear that Petitioner has addressed this point.

Furthermore, the decision of November 18, 2005 also addressed the matter of the cause of the filing delay:

> Furthermore, since the PTO did not cause or contribute to Petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief[4]. It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR §1.183[5]. Rather, as petitioner failed to properly deposit his application with the USPS in accordance with the requirements of 37 C.F.R. §1.10(a)(1), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

It does not appear that Petitioner has addressed the fact that it was the actions of his agent, and not the PTO, which caused the delay in filing, and as such, this case is even further removed from consideration as one where justice requires equitable relief.

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2 Original petition, page 4.
3 Id.
4 See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).
5 See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule).

Moreover, in his original petition, Petitioner cited to Sturzinger v. Commissioner of Patents, 181 USPQ 436 (DC DC 1974) as standing for the proposition that the filing date this application should receive is not the date on which it was deposited with the Office, bur rather the date on which the applicant *intended* to deposit it with the Office. The decision made it clear that this is opposite to what the court held in Sturzinger, and the Office's decision to award a filing date of May 21, 2005 is directly in line with the reasoning of this case. It does not appear that Petitioner has addressed this point with his renewed petition.

Finally, the decision of November 18, 2005 indicated the following:

> 35 USC 111(a)(4) conditions the filing date as "the date on which the specification and any required drawing are received in the Patent and Trademark Office." 35 USC 21(a) includes a deposit with the USPS via the USPS Express Mail service in the definition of "received in the Patent and Trademark Office."
>
> The granting of Petitioner's request for a filing date of May 20, 2005 - the day before "the specification and any required drawing" were received in the PTO - would require the waiver of 35 USC 111(a)(4), and this cannot be done, for a Rule cannot be relaxed in contravention of any Law.

Petitioner has cited to this portion of the decision, yet has asked the Office to treat a fax he sent to his client[6] as the functional equivalent of a "date-in" on a United States Postal Service Express Mail label. This would require the Office to act in contravention to 35 USC 111(a)(4), and as has been set forth previously, the Office cannot waive a Law.

Conclusion

The petition is **DISMISSED.**

The application will retain a filing date of May 21, 2005.

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.

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6 At 8:00 PM on May 20, 2005, 2 hours after the attorney entrusted the application to the courier, a facsimile transmission was sent to the client which incorrectly indicated that the application had been filed with the Office.

NOTICE:

Any renewed petition under 37 C.F.R. §1.183 must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. §1.183," and should only address the deficiencies noted in this decision.

Thereafter, there will be no further reconsideration of this matter[7, 8].

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[9], hand-delivery[10], or facsimile[11].

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

7 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.
8 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.
9 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
10 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
11 (571) 273-8300- please note this is a central facsimile number.

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OFFICE OF PETITIONS

In re Application of	:	
Chrishan Surendran Samuel et al.	:	
Application No. 11/133,763	:	DECISION ON SECOND RENEWED
Filing Date: May 21, 2005	:	PETITION UNDER 37 C.F.R.
Attorney Docket Number: 087520-000000US	:	§1.183
Title: PREVENTION OF FIBROSIS FOLLOWING CARDIAC INJURY	:	

Background

This is a decision on the second renewed petition filed August 2, 2006, pursuant to 37 C.F.R. §1.183, requesting that 37 C.F.R. §1.10 be waived so that Petitioner may receive a filing date which precedes the date on which his application was mailed.

The application was deposited on May 21, 2005 along with a Utility Application Transmittal sheet which bears Express Mail label EV606078565US, a declaration, claims, an abstract, drawings, and an Application Data Sheet (ADS).

The original petition was submitted on October 31, 2005, and was dismissed via the mailing of a decision on November 18, 2005. A renewed petition was filed on January 17, 2006, which was dismissed via the mailing of a decision on March 3, 2006. It is

noted that the present second renewed petition was accompanied by a three-month extension of time.

With the original petition, Petitioner indicated that on May 20, 2005, at 5:55 PM, a courier who is employed by Petitioner's law firm (identified only as "Mr. R.") left the firm with the above-identified application in his bag. Mr. R. boarded the Bay Area Rapid Transit (BART) with the intent of traveling to the post office, so that the application could be mailed via first class mail, so as to secure a filing date of May 20, 2005. Mr. R. then fell asleep while on the train, and he awoke when the train approached his stop. Mr. R. then left the patent application on the seat of the train when he debarked. Mr. R. then suffered an acute panic attack, and Petitioner asserted that due to this panic attack, the courier was "not of sufficiently sound mind and judgment to ensure in any way that the application be filed by other means[1]."

Petitioner learned of these events the following morning, at which time the application papers were re-dated, and filed with the USPS on May 21, 2005.

Applicable Statues and Rules

35 U.S.C. 21(a)

The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

35 U.S.C. 111 (a)(4)

FAILURE TO SUBMIT.-Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

37 C.F.R. § 1.10(a)(1)

Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of

1 Original petition, page 3.

the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

37 C.F.R. § 1.53 Application number, filing date, and completion of application.

(a) Application number. Any papers received in the Patent and Trademark Office which purport to be an application for a patent will be assigned an application number for identification purposes.

(b) Application filing requirements - Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and § 1.78(a).

(1) A continuation or divisional application that names as inventors the same or fewer than all of the inventors named in the prior application may be filed under this paragraph or paragraph (d) of this section.

(2) A continuation-in-part application (which may disclose and claim subject matter not disclosed in the prior application) or a continuation or divisional application naming an inventor not named in the prior application must be filed under this paragraph.

§ 1.183 Suspension of rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).
[47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

Analysis

In order to submit a grantable petition under 37 CFR 1.183, Petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

Petitioner has not established that either condition exists in this case.

With the decision on the original petition, it was indicated that it was not clear what other action Petitioner would have had the courier undertake after he had left the application on the train:

> Petitioner comments that this panic attack "prevented him (Mr. R) from employing any rational means for ensuring that the subject application be timely filed[2]." However, on a Friday night after the close of business hours with him on the ground and his bag on the train, proceeding to the lost and found office seems to be the best course of action he could have undertaken at that point. It is not clear what alternate course of action Petitioner believes Mr. R. should or would have taken, had his mind not been "overwhelmed with confusion, disorientation and panic[3]."

On the sixth page of this renewed petition, Petitioner has set forth that Mr. R. could have either used a public pay phone in the train station to make a collect call to the law firm, or he could have used the phone in the BART agent ticket booth. It is noted that with this second renewed petition, Petitioner has not explicitly set forth that there was anyone at the law firm after the close of normal business hours on a Friday evening to answer the phone. As such, even if Mr. R. would have telephoned the firm, it appears that he would have called an empty office.

Petitioner further speculates that Mr. R. could have contacted "many of the firm's attorneys [who] live within a small geographic distance of the office." It is noted that Petitioner has not set forth that Mr. R. had in his possession a roster of the home phone numbers and/or addresses of the firm's attorneys, nor has he set forth that Mr. R. had personal knowledge of this information at the time.

Petitioner additionally asserts that Mr. R. could have waited at the station, "for news of the retrieval of his bag[4]." It is not clear why this would not have resulted in an identical outcome. On the sixth and seventh pages of the original petition, Petitioner indicated that in a voice mail, the BART Clerk indicated that although the bag had been located on May 20, 2005, it would not be available until the next morning. Hence, even if Mr. R. had waited at the train station, he would not have been able to retrieve the bag until the passing of the May 20, 2005 deadline.

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2 Original petition, page 4.
3 Id.
4 Second Renewed petition, page 7.

Petitioner asserts that "a reasonable person...would have attempted to contact the Firm to ask for help and instructions. It is highly likely that the subject application would have been filed timely had Mr. R. telephoned the Firm[5]." However, with no people at the firm after hours on a Friday night, and without the home addresses/phone numbers of the Firm's attorneys, it is not clear why Petitioner would arrive at this conclusion.

Moreover, the decision of November 18, 2005 also addressed the matter of the cause of the filing delay:

> Furthermore, since the PTO did not cause or contribute to Petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief[6]. It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR §1.183[7]. Rather, as petitioner failed to properly deposit his application with the USPS in accordance with the requirements of 37 C.F.R. §1.10(a)(1), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

With this second renewed petition, Petitioner has set forth that "Mr. R's inability to deliver the application was a direct result of his mental illness: an extraordinary situation[8]." As set forth in footnote thirteen of the decision on the original petition, "it is noted in passing that page 4 of the Bernstein report makes it clear that Petitioner did not suffer from a panic attack until after the bag had been left on the train." As set forth on the fifth page of the decision on the original petition,

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5 Id. at 5.

6 See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

7 See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule).

8 Second renewed petition, page 7.

> The application was not deposited with the USPS because the courier fell asleep on a train and forgot to gather his belongings before departing the train. There is nothing extraordinary about this situation. Had the courier, an agent of the Petitioner, remained awake and retained dominion over his possessions, the loss would not have occurred. Remaining awake and remembering to take his items with him were circumstances which were entirely within his control, and the dispossession of the bag containing the application which resulted in the failure to secure the desired filing date for this application could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence.
>
> U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983).

Petitioner admits that accidents which could have been prevented by the exercise of ordinary care or diligence do not give rise to extraordinary situations, and that a party's inadvertent failure to comply with Office rules does not rise to the level of an extraordinary situation[9]. On the eighth page of the second renewed petition, Petitioner sets forth:

> Mr. R.'s actions, *after loss of his possessions, (emphasis added)* were not the result of his not being duly attentive, but his complete inability to formulate and carry through a rational course of action. That is, it is not the loss of Mr. R.'s bag that the Petitioner submits is an 'extraordinary situation,' but the acute panic attack that ensued and the resulting inability to follow a rational, coherent means to recover the bag was extraordinary.

Petitioner's assertion misses the point. It was the inattentiveness of his courier that resulted in the loss of the bag. Had his courier stayed awake, and not left his bag on the train, the bag would not have been lost. The loss of the bag is what resulted in the failure to deposit this application with the USPS in a timely manner, and not any event which occurred subsequent thereto. Therefore, even if the Office were to accept Petitioner's assertion that the courier suffered an acute panic attack which impaired his ability to think in a rational manner, this does not change the fact that the courier appears to have been of sound mind and clear judgment at the time of his dispossession of the application. In summary, Petitioner has asserted that the courier suffered a mental impairment, however this disability occurred subsequent to the courier's loss of the

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9 Second renewed petition, pages 7-8.

present application. But for the failure of Petitioner's agent to remember to take his bag with him when he exited the train, the application would have been timely filed.

It follows that it was the actions of his agent, and not the PTO, which caused the delay in filing, and as such, this case is even further removed from consideration as one where justice requires equitable relief.

Regarding the case of Sturzinger v. Commissioner of Patents, 181 USPQ 436 (DC DC 1974), Petitioner has asserted on second renewed petition that this case stands for the proposition that the filing date this application should receive is not the date on which it was deposited with the Office, but rather the date on which the applicant *intended* to deposit it with the Office[10]. Such is not the case.

Petitioner's representative has asserted that the court in Sturzinger accorded the application a filing date of the date on which the applicant intended to file the application, but this is inaccurate.

As set forth on pages 6-7 of the decision on the original petition:

> Petitioner would have the Office assign the date on which he intended (emphasis included) to file the application with the USPS as his filing date. However, in Sturzinger, the Plaintiff neither sought nor received the date of March 23, 1971 as his filing date, the date on which he intended (emphasis included) to file the application with the Office. **The date which the Plaintiff both sought and received was the date on which the package was received by the PTO** (emphasis added). With the present application, the date which the application received as a filing date was the date on which the application was deposited with the PTO (pursuant to 37 C.F.R. §1.10(a)(1), filing an application with the USPS will be considered as filed with the USPTO if the Applicant utilizes the "Express Mail Post Office to Addressee" service of the USPS). As such, it would appear that the PTO accorded Petitioner the same treatment by the PTO as the Court awarded the Plaintiff in the case cited by Petitioner, however **Petitioner would have the Office provide a disparate filing practice** (emphasis added).

In Sturzinger, the applicant deposited the application with the USPS on March 23, 1971, and the mail was stolen subsequent to the deposit, *while in the custody of the USPS*. A substantially similar application (but including a photocopy of the declaration) was later deposited directly with the Office on April 13, 1971. An original declaration was subsequently filed with the Office on July 12, 1971, and the Office accorded this date as the filing date of the application. The court awarded the date of April 13, 1971 - the date on which an incomplete set of papers were received

10 Second renewed petition, pages 8-10.

in the Office. This contrasts with the present set of facts, as Petitioner would have the Office accord a filing date of the day before any papers were received in the Office.

The present set of facts is further distinguished from the situation in Sturzinger, as Sturzinger involved the "theft or loss of documents from the mails,[11]" and it is well settled that patent applicants are entitled to rely upon the ordinary and trustworthy agency of the mail[12]. With the present set of facts, the application was not stolen from the Post Office after it was deposited with the same, but rather it was left behind on a train because the courier fell asleep and forgot to gather his belongings when he awoke.

Finally, the decision of November 18, 2005 indicated the following:

> 35 USC 111(a)(4) conditions the filing date as "the date on which the specification and any required drawing are received in the Patent and Trademark Office." 35 USC 21(a) includes a deposit with the USPS via the USPS Express Mail service in the definition of "received in the Patent and Trademark Office."
>
> The granting of Petitioner's request for a filing date of May 20, 2005 - the day before "the specification and any required drawing" were received in the PTO - would require the waiver of 35 USC 111(a)(4), and this cannot be done, for a Rule cannot be relaxed in contravention of any Law.

Regarding the waiver of a statute, Petitioner has asserted that "in cases of postal service interruptions or emergencies, patent applications are granted the filing dates they would have received, but for the service interruption or emergency[13]."

35 U.S.C. § 21(a) sets forth, *in toto*:

> (a) The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

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11 Sturzinger at 437.
12 *In re Katrapat, AG*, *6 U.SPQ 2d 1863, 1866 (1988)*. *See also Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887); *In re Matullath*, 38 App. D.C. 497, 514-15 (1912); *Winkler v. Ladd*, 221 F.Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd , 143 USPQ 172, 172 (D.C. Cir. 1964).
13 Petition, page 11.

Petitioner would have the Office consider the courier's "medical emergency...be considered an emergency so designated by the Director.[14]" As set forth above, the acute panic attack did not result in the failure of the present application to receive the filing date which Petitioner would prefer - it was the courier's abandonment of his bag which resulted in the delay in depositing the present application with the USPS. This event was entirely within the control of the courier, an agent of Petitioner's representative, and as such, it does not rise to the level of an emergency.

Finally, Petitioner has asserted that since the application spent the night under the exclusive control of the BART station, "the BART lost and found was a proxy for the U.S.P.S," and as such, the "stated goals of Rule 10 were satisfied[15]."

Rule §1.10 sets forth that any correspondence that is received by the Office will be considered filed with the USPTO on the date of deposit with the USPS, when the correspondence is deposited with the USPS and is delivered to the Office by the "Express Mail Post Office to Addressee" service of the USPS. Petitioner has further submitted that the rationale behind the implementation of the rule is that the date of deposit with the USPS is "verified by a *disinterested* (emphasis included) USPS employee[16]." In the present situation, the correspondence was deposited not with the USPS, but rather was left behind on a train, found by the woman who had been sitting next to the courier[17], and eventually deposited with the BART lost and found department by an unspecified means. Petitioner cannot rely on Rule §1.10 to have the application accorded a filing date that is prior to the date on which the correspondence was deposited with the USPS.

Conclusion

The petition is **DENIED**[18].

The application will retain a filing date of May 21, 2005.

---

14 Id.
15 Id at 13..
16 Second renewed petition, page 12.
17 Bernstein report, page 3.
18 This decision may be regarded as a final agency action within the meaning of 5 U.S.C. §704 for the purposes of seeking judicial review. See MPEP 1002.02.

THERE WILL BE NO FURTHER RECONSIDERATION OF THIS MATTER BY THIS OFFICE.

Telephone inquiries should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Charles Pearson
Director
Office of Petitions
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

In re Application of	:
Chrishan S. Samuel et al	:
Serial No.: 11/133,763	: SUSPENSION OF ACTION
Filed: May 21, 2005	:
Attorney Docket No.: 087520-000000US	:

This is in response to the petition under 37 CFR 1.103 (not M.P.E.P. 2284), filed June 14, 2007, to suspend prosecution of the above identified application for three months.

Applicants seek suspension of prosecution in this application for a period of three months in view of an action pending in DC District Court.

BACKGROUND

This application was filed May 21, 2005, and applicants have replied to the last Office action concurrently with this petition.

DISCUSSION

37 CFR 1.103. Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in §1.17(I).

M.P.E.P. 709 relates to suspension of action in an application. 37 CFR 1.103 permits the Office to suspend action upon petition by applicants for **good and sufficient cause** (emphasis added). Applicants state that a complaint has been filed in DC District Court pertaining to the foiling date of this application and request that prosecution in this application be suspended pending resolution of the complaint.

Applicants' filing of a complaint in the District Court is not considered grounds for suspension of action. There is no indication given by applicants as to when the complaint will be heard or decided. Further, as the complaint pertains to the filing date of this application, this would affect prosecution only if an intervening reference were applied as prior art against this application which has an effective date prior to applicants' accorded filing date and the filing or priority date

desired. As this application has not yet been examined on the merits (only a restriction requirement has been issued and replied to) suspension would be inappropriate.

DECISION

The petition to suspend action is DENIED.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number 571-273-8300.

Christopher Low

Christopher Low
Director, Technology Center 1600

(acting)

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Paper No. None

WOLF GREENFIELD & SACKS, PC
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BOSTON MA 02210-2211

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of
Frederick Herz et al.
Application No. 11/133,766
Filed: May 20, 2005
Title: SYSTEM AND METHOD FOR SCHEDULING BROADCAST OF AN ACCESS TO VIDEO PROGRAMS AND OTHER DATA USING CUSTOMER PROFILES

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.182, filed August 16, 2005, requesting that the above-identified application be accorded a filing date of May 20, 2005, with pages 56-59 of the specification as part of the original disclosure of the application.

The application was deposited on May 20, 2005. However, on June 15, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers – Filing Date Granted" (notice) stating that the application been accorded a filing date, and advising applicants that it appeared that the application had been deposited without pages 56-59 of the specification. The notice set a period of response of two-months, and further indicated that replacement drawings would be required.

On August 15, 2005, the present petition was filed, along with the petition fee, replacement drawings and pages 56-59 of the specification. The petition fee of $400 has been charged to Petitioner's Deposit Account, as authorized in the petition.

It is noted that the signature block above the name of the Petitioner is blank.

37 C.F.R. §10.18(a) sets forth:

For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

Since this petition has been submitted without a signature, the petition cannot be processed.

For this reason, the petition under 37 CFR §182 is **DISMISSED**.

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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Paper No. None

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OFFICE OF PETITIONS

In re Application of :
Frederick Herz et al. :
Application No. 11/133,766 : DECISION ON RENEWED PETITION
Filed: May 20, 2005 : UNDER 37 C.F.R. §1.182
Title: SYSTEM AND METHOD FOR :
SCHEDULING BROADCAST OF AN :
ACCESS TO VIDEO PROGRAMS AND :
OTHER DATA USING CUSTOMER :
PROFILES :

BACKGROUND

This is a decision on the renewed petition under 37 C.F.R. §1.182, filed November 7, 2005, requesting that the above-identified application be accorded a filing date of May 20, 2005, with pages 56-59 of the specification as part of the original disclosure of the application.

The application was deposited on May 20, 2005. However, on June 15, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers - Filing Date Granted" (notice) stating that the application been accorded a filing date, and advising applicants that it appeared that the application had been deposited without pages 56-59 of the specification. The notice set a period of response of two-months, and further indicated that replacement drawings would be required.

On August 16, 2005, the original petition was filed, along with the petition fee, replacement drawings and pages 56-59 of the

specification. The petition was dismissed via the mailing of a decision on September 9, 2005, as the signature block above the name of the Petitioner was left blank.

This renewed petition has been signed by the Petitioner.

With this renewed petition, Petitioner has asserted that the missing pages were included on filing and has submitted a copy of the postcard receipt. Petitioner has further asserted that even if the missing pages had been omitted, the application contained a preliminary amendment which contains a priority claim as well as an incorporation by reference statement which incorporated the contents of the prior application.

THE POSTCARD RECEIPT

Regarding the postcard receipt, Petitioner asserts that pages 56-59 of the specification were included on filing, and has included a copy of his postcard receipt.

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

> RETURN POSTCARD
>
> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.
>
> The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component

should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO.

The PTO has a well established and well publicized practice of providing a receipt for papers filed in the PTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the PTO with a self-addressed postcard identifying the paper. A postcard receipt which *itemizes and properly identifies* the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO[1].

Obviously, the degree on which applicants may rely on a postcard receipt to establish receipt of a particular item depends on the specificity of the itemization.

With the renewed petition, Petitioner has submitted a copy of his postcard receipt, and the relevant portion reads "complete copy of prior application serial no. 09/431,102 including declaration as originally filed and revocation of power of attorney and new power of attorney."

The number of pages of specification is not listed on the postcard. The PTO file is the official record of all papers filed in this application. A review of the official electronic file reveals that pages 56-59 of the specification are not present in the same. An applicant alleging that papers were filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner's assertion that these pages were included on filing is not more persuasive than the electronic file, and the postcard receipt which he prepared and submitted cannot be relied upon to establish that the missing pages were included on filing.

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1 See MPEP 503.

INCORPORATION BY REFERENCE

Petitioner states that the application contained a preliminary amendment which contained a priority claim as well as an incorporation by reference statement which incorporated the contents of the prior application. As such, Petitioner has asserted that even if the missing pages had been omitted on filing, pages 56-59 of the specification were constructively included on filing, through incorporation by reference.

The Preliminary Amendment to the specification, which was included on filing, indicates that the entire disclosure of the parent application (09/431,102) is incorporated by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Section 201.06(c) of the MPEP sets forth, in part:

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition (emphasis provided) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

If Petitioner desires for the Examiner to consider the missing pages which was not submitted as part of the original disclosure, then petitioner may submit these pages via an amendment. Any such amendment will, of course, be reviewed by the Examiner for new matter[2]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

For these reasons, the petition under 37 CFR 1.182 is **DISMISSED.**

Pages 56-59 of the specification, submitted with this renewed petition, will not be entered. Should petitioner wish for the pages to be entered, an amendment must be filed.

---

2 See MPEP 608.02(a).

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $400 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

In re Application of
Wang et al.
Application No. 11/133,768
Filed: May 20, 2005
Attorney Docket No. 1008 089 301 0251

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Howard J. Greenwald P.C., has been revoked by the assignee of the patent application on March 20, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: BIOPHAN TECHNOLOGIES, INC.
15 SCHOEN PLACE
PITTSFORD, NY 14534

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Director's Office
Group 3700

CARDINAL LAW GROUP
Suite 200
1603 Orrington Avenue
Evanston, Illinois 60201

In re application of
Wendell A. Thomas

Serial Number: 11/133,774
Filed: May 20, 2005

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **NASAL MASK FOR DELIVERING GAS**

This is a decision on the petition filed on May 20, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 8/25/05

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth Ma	:	
Application No. 11/133,776	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. 13702US02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 16, 2008, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a terminal disclaimer under 37 CFR 1.321 and $140 fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

The application file is being referred to Technology Center Art Unit 2115, for appropriate action by the Examiner in the normal course of business on the response filed December 16, 2008.

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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Choate, Hall & Stewart/Harvard University
Two International Place
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Andrew G. Myers et al. :
Application No. 11/133,789 : DECISION ON PETITION
Filed: May 20, 2005 : TO WITHDRAW
Attorney Docket No. 0342941-0126 : FROM RECORD
:

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 3, 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 the firm of Choate, Hall & Stewart/Harvard University has been revoked by the assignee of the patent application on September 16, 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: Harvard University & Medical School
c/o Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/133,789	05/20/2005	Andrew G. Myers	0342941-0126

CONFIRMATION NO. 9999

58374
CHOATE, HALL & STEWART/HARVARD UNIVERSITY
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

POWER OF ATTORNEY NOTICE

OC000000037868663

Date Mailed: 09/18/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/16/2009.

- 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).

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MORGAN, LEWIS & BOCKUS, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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SEP 29 2008

In re Application of	:	
David Geraint OWEN, et al	:	
Application No. 11/133,808	:	DECISION ON PETITION
Filed: May 20, 2005	:	TO WITHDRAW
Attorney Docket No. 061082-5001US	:	FROM RECORD
	:	

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 27, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: THOMAS D. KOHLER
DOWNS RACHLIN MARTIN PLLC
COURTHOUSE PLAZA,
199 MAIN STREET
BURLINGTON, VT 05402-0190

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SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of Waring et al. :
Application No. 11/133,812 : Decision on Petition
Filing Date: May 19, 2005 :
Attorney Docket No. 006212.P006 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 25, 2006, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

A non-final Office action requiring restriction of claims was mailed February 14, 2006.

The non-final Office action set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

A reply to the Office action was not matched with the file. As a result, the application was considered abandoned as of March 15, 2006.

Petitioner contends a reply was timely filed. Petitioner has supplied a copy of a reply mailed February 10, 2006. The reply bears a proper certificate of mailing in compliance with the requirements of 37 C.F.R. 1.8(a). The petition complies with the requirements set forth in 37 CFR 1.8(b). In view thereof the reply is considered timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the Office has scheduled a refund of the $500 petition fee.

Technology Center Art Unit 1654 will be informed the application has been revived 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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LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

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OFFICE OF PETITIONS

In re Application of :
Donald T. MCGRATH et al. :
Application No. 11/133,815 : DECISION ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. 04-2016 1496.00440 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 04, 2007 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 05, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of May 04, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2825 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Zulfikar Amin Ramzan	: DECISION ON REQUEST FOR
Patent Number	: 7620625	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1215** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Ingolf Braune et al :
Application No. 11/133,844 : DECISION GRANTING PETITION
Filed: May 20, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 089452-000100US :

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 petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply received August 27, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2878 to consider the RCE/amendment/IDS received August 27, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK NY 10036

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Tenmyo, et al. :
Application No. 11/133,847 : DECISION
Filed: 20 May, 2005 :
Attorney Docket No. 26103.011 :

This is a decision on the petition, filed on 24 March, 2009, considered as one under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners' attentions always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final Office action mailed on 13 August, 2008, with reply due absent extension of time on or before 13 November, 2008.

The application went abandoned by operation of law after midnight 13 November, 2008.

The Office mailed a Notice of Abandonment on 10 March, 2009.

On 24 March, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, averring non-receipt with statements of non-receipt, search and non-discovery, a description of the docketing system

and statement of reliability (*Petitioner's statement is construed so to state "sufficiently reliable" as required by the guidance in the Commentary at MPEP §711.03(c)(I), and if this is not correct Petitioner **must** so notify the Office*), with copies of what were averred to be the docket sheet for the instant application and due date calendar for the firm consistent with the guidance in the Commentary at MPEP §711.03(c)(I) as required. The petition was dismissed on 16 March, 2009

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears to have made the showing required or do so within the time required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 10 March, 2009, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2862 for further processing in due course—to include the re-mailing of the Office action.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) 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

---

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/133,847	05/20/2005	Yoshiharu Tenmyo	26103.011	1186

26272 7590 08/13/2008

COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER	
FULLER, RODNEY EVAN	
ART UNIT	**PAPER NUMBER**
2862	
MAIL DATE	**DELIVERY MODE**
08/13/2008	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.

Office Action Summary	Application No.	Applicant(s)	
	11/133,847	TENMYO, YOSHIHARU	
	Examiner	Art Unit	
	Rodney E. Fuller	2862	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 July 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) *9-13* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☒ Claim(s) *1-8* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 May 2005* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/20/05, 1/23/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I (Figures 1-7) (Claims 1-8) in the reply filed on July 7, 2008 is acknowledged.

2. Claims 9-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 7, 2008.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because the phrase "An illumination apparatus is disclosed" can be implied. Correction is required. See MPEP § 608.01(b).

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following item(s) must be shown or the feature(s) canceled from the claim(s):

a. "the reflecting surface is formed further away from an irradiation optical axis than a normal to the emergent surface at a position of the emergent surface closest to the reflecting surface"

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

6. Claim 1 is objected to as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 sets forth the limitation wherein "the reflecting surface is formed further away from an irradiation optical axis than a normal to the emergent surface at a position of the emergent surface closest to the reflecting surface." This limitation is supported by the disclosure in paragraphs 19, 61, 63 and 86. However, structure shown in Figure 1 does not show reflecting surface further from the optical axis than the normal to the emergent surface at a position closest to the reflecting surface. In other words, Figure 1 shows the reflective surface 2c closer to the optical axis L than the normal n at the emergent surface nearest the reflecting surface.

7. Claims 2-8 depend from claim 1 and therefore include the deficiencies of claim 1.

8. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 8 sets forth an image taking apparatus which does not further limit the subject matter of the illumination apparatus of claim 1.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hubble, III, et al. (US 5,526,190).

Regarding claim 1, Hubble discloses "a light source (Fig. 3, ref.# 30); and an optical member (Fig. 3, ref.# 10), which is disposed on the light irradiation side of the light source, wherein the optical member includes an incident surface (Fig. 2, ref.# 16), an emergent surface (Fig. 2, ref.# 24) having a positive optical power, and a reflecting surface (Fig. 2, ref.# 22) reflecting part of light from the incident surface and leading the part of light to the emergent surface, and the reflecting surface is formed further away from an irradiation optical axis than a normal to the emergent surface at a position of the emergent surface closest to the reflecting surface (See surface arrangement shown in Figure 2)."

Regarding claim 2, Hubble discloses "wherein the aperture of the emergent surface (Fig. 2, ref.# 24) is larger than the aperture of the incident surface (Fig. 2, ref.# 16)."

Regarding claim 3, Hubble discloses "wherein a distance to the reflecting surface (Fig. 2, ref.# 22) from the irradiation optical axis continuously increases from the side

close to the incident surface (Fig. 2, ref.# 16) to the side close to the emergent surface (Fig. 2, ref.# 24)."

Regarding claim 4, Hubble discloses "wherein the light source has a light-emitting surface (Fig. 3, ref.# 30) which has substantially the same size as the aperture of the incident surface (Fig. 3, ref.# 16)."

Regarding claim 5, Hubble discloses "wherein the optical member (Fig. 2, ref.# 10) is shaped such that the incident surface (Fig. 2, ref.# 16) is adjacent to the reflecting surface (Fig. 2, ref.# 22) and the reflecting surface is adjacent to the emergent surface (Fig. 2, ref.# 24)."

Regarding claim 6, Hubble discloses "wherein the incident surface (Fig. 2, ref.# 16), the reflecting surface (Fig. 2, ref.# 22), and the emergent surface (Fig. 2, ref.# 24) have rotationally symmetric shapes with respect to the irradiation optical axis."

Regarding claim 7, Hubble discloses "wherein the light source is a light-emitting diode." (column 4, line 10)

Regarding claim 8, Hubble discloses "an image-taking system, which takes an image of an object illuminated with light from the illumination apparatus." (column 1, lines 12-14)

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tenmyo (US 7,254,323), Lungershausen (US 6,016,406), Nishimoto, et al. (US 2007/0189007), Marshall, et al. (US 2002/0080615), Yano, et al.

(US 7,204,607), Marshall, et al. (US 6,547,423), Chinniah, et al. (US 6,724,543), Yano, et al. (US 2004/0100192), Shimizu, et al. (US 2003/0189829) and Kano, et al. (US 3,785,456) each disclose a LED lamp module with an incident, reflecting and exiting surface.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney E. Fuller whose telephone number is 571-272-2118. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney E Fuller/
Primary Examiner, Art Unit 2862

August 11, 2008

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OFFICE OF PETITIONS

In re Application of	:	
Ralph Schaeffer, et al.	:	
Application No. 11/133,850	:	ON PETITION
Filed: May 19, 2005	:	
Attorney Docket No.: 108298670US3	:	

This is a decision on the petition, filed June 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 June 5, 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 2829 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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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JUN 17 2008

In re Application of:
TUUT et al.
Application No. 11/133,862
Filed: May 20, 2005
Attorney Docket No. **TEN-63C**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to pay the issue and publication fees on or before, as required by the Notice of Allowance and Fee(s) Due, mailed March 9, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 and the publication fee of $300.00, (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

This application is being referred to the Publishing Division for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KOESTNER BERTANI LLP
2192 Martin St.
Suite 150
Irvine, CA 92612

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OFFICE OF PETITIONS

In re Application of

Quinby, et al.

Application No. 11/133,869

Filed: May 19, 2005

Attorney Docket No.SD-7590

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 1, 2007.

The petition is **granted**.

This application was held abandoned December 21, 2006, after no reply was received to the final Office action mailed September 20, 2006. 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 December 21, 2006. Petitioner maintains that the final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2800, GAU 2833 where the final Office action will be remailed and the period for reply reset.

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

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
11/133869	5/19/05	QUINBY, JOSEPH D.	SD-7590

SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

EXAMINER	
NGUYEN, TRUC	
ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 12/11/07

NOTICE OF RESCINDED ABANDONMENT

☒ **In response to your communication filed** 11/30/07

☐ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For Kenneth M. Schell

Manager, Publications Division
Office of Patent Publication
571-272-4200

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/133,897	05/20/2005	Motohiro Kawahito	JP920040067US1	9504

27431 7590 11/06/2008

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER	
BULLOCK JR, LEWIS ALEXANDER	
ART UNIT	**PAPER NUMBER**
2193	

MAIL DATE	DELIVERY MODE
11/06/2008	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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SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: KAWAHITO et al.
Application No. 11/133,897
Filed: May 20, 2005
For: COMPILER OPTIMIZATION

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 4, 2008, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in

the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

Mail Date: 04/20/2010

Applicant	: Yoshiaki Hata	: DECISION ON REQUEST FOR
Patent Number	: 7656072	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **881** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NIXON PEABODY LLP - PATENT
GROUP
1100 CLINTON SQUARE
ROCHESTER NY 14604

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of :
Moon, et al. :
Application No. 11/133,918 : ON APPLICATION FOR
Filed: May 20, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 34186-1230 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 CFR 1.705(b)" filed April 7, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred thirty-one (331) days, not two hundred and sixty (260) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, 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 –

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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.

> (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 July 31, 2008.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred and ninety (190) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

A review of the application history reveals that on October 30, 2007, a non-final Office action was mailed, to which applicants responded on October 27, 2009. On January 5, 2010, applicant filed an Information Disclosure Statement (IDS). 37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. Further review of the Information Disclosure Statement filed January 5, 2010, did

not reveal a proper statement under 37 CFR 1.704(d).[2] Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of 70 (3) days will be entered with said period being calculated beginning on the day after the date the initial reply was filed, October 28, 2009, and ending on the date the supplemental reply was filed January 5, 2010.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is one hundred and ninety (190) days (336 days of Office delay - 149 (3+ 21 + 55 +70) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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.

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[2] 37 CFR 1.704(d) provides that:

> (d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Telephone inquiries regarding this specific matter should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PTA Calculations for Application: 11/133918			
Application Filing Date:	05/20/2005	PTO Delay (PTO):	339
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	79
Post-Issue Petitions:	0	Total PTA (days):	190
PTO Delay Adjustment:	-70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
99	06/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		70	
80	01/08/2010	MAIL NOTICE OF ALLOWANCE			
79	01/05/2010	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	01/05/2010	ISSUE REVISION COMPLETED			
77	01/05/2010	DOCUMENT VERIFICATION			
76	01/05/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	12/29/2009	NOTICE OF ALLOWABILITY			
74	11/10/2009	DATE FORWARDED TO EXAMINER			
73	10/27/2009	RESPONSE AFTER NON-FINAL ACTION			
72	07/30/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
71	07/30/2009	MAIL NON-FINAL REJECTION	6		67
70	07/20/2009	NON-FINAL REJECTION			
69	07/01/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	05/09/2009	DATE FORWARDED TO EXAMINER			
67	03/24/2009	RESPONSE AFTER NON-FINAL ACTION		55	62
66	03/24/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
65	04/17/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
64	02/26/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
63	02/23/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
62	10/28/2008	MAIL NON-FINAL REJECTION			

61	10/27/2008	NON-FINAL REJECTION			
58	08/28/2008	DATE FORWARDED TO EXAMINER			
57	07/31/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
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55	07/31/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		21	51
54	08/28/2008	DISPOSAL FOR A RCE / CPA / R129			
53	07/31/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	07/31/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	04/10/2008	MAIL FINAL REJECTION (PTOL - 326)			
50	04/09/2008	FINAL REJECTION			
42	02/16/2008	CORRESPONDENCE ADDRESS CHANGE			
41	02/16/2008	DATE FORWARDED TO EXAMINER			
40	01/22/2008	RESPONSE AFTER NON-FINAL ACTION		3	39
39	10/19/2007	MAIL NON-FINAL REJECTION			
38	10/15/2007	NON-FINAL REJECTION			
37	01/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	07/31/2007	DATE FORWARDED TO EXAMINER			
35	07/20/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
34	06/18/2007	MAIL RESTRICTION REQUIREMENT	333		-1
33	06/12/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
32	01/30/2006	REFERENCE CAPTURE ON IDS			
31.7	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	08/24/2005	PRELIMINARY AMENDMENT			
29	01/24/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	01/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	12/02/2005	APPLICATION RETURN FROM OIPE			
26	12/02/2005	APPLICATION IS NOW COMPLETE			
25	12/02/2005	APPLICATION RETURN TO OIPE			
24	12/02/2005	APPLICATION RETURN FROM OIPE			
23	12/02/2005	APPLICATION IS NOW COMPLETE			
22	12/02/2005	APPLICATION RETURN TO OIPE			

21	12/02/2005	APPLICATION RETURN FROM OIPE			
20	12/02/2005	APPLICATION IS NOW COMPLETE			
19	05/20/2005	ADDITIONAL APPLICATION FILING FEES			
18	12/02/2005	APPLICATION RETURN TO OIPE			
17	11/30/2005	APPLICATION DISPATCHED FROM OIPE			
16	12/01/2005	APPLICATION IS NOW COMPLETE			
15	08/24/2005	ADDITIONAL APPLICATION FILING FEES			
13	08/24/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
12	09/02/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	06/27/2005	PRE-EXAM OFFICE ACTION WITHDRAWN			
8	07/11/2005	ADDITIONAL APPLICATION FILING FEES			
7	07/11/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	07/11/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
5	06/27/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/02/2005	CLEARED BY OIPE CSR			
2	05/30/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/20/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Koji Ujino	: DECISION ON REQUEST FOR
Patent Number	: 7627420	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LOS ANGELES, CA 90071-1448

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AUG 0 8 2008

In re Application of :
Dean A. Snell, et al. :
Application No. 11/133,924 : ON PETITION
Filed: May 18, 2005 :
Attorney Docket No. 0EKM-111139 :

This is a decision in response to the petition, filed April 4, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Bridgette A. Agness appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 21, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 22, 2007. This decision precedes the mailing of a Notice of Abandonment. On April 4, 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 $1,540; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $1,050 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received April 4, 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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INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Kenneth Astl	: DECISION ON REQUEST FOR
Patent Number	: 7617500	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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W. Ulrich
501 Forest Aveue
Unit 406
Glen Ellyn, IL 60137-4175

Mail Date: 08/04/2010

Applicant	: Yigang Cai	: DECISION ON REQUEST FOR
Patent Number	: 7643623	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/133,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

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JUN 2 4 2008

OFFICE OF PETITIONS

In re Application of
Frederick M. HASS
Application No. 11/133,938
Filed: May 20, 2005
Attorney Docket No. H91.2-11732-US01

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, 2008.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: FREDERICK M. HASS, M.D.
209 PARKVIEW TERRACE
MINNEAPOLIS, MN 55416

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

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AUG 1 8 2008

In re Application of	:	
Frederick M. HASS	:	
Application No. 11/133,938	:	DECISION ON PETITION
Filed: May 20, 2005	:	TO WITHDRAW
Attorney Docket No. H91.2-11732-US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 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 Johnathan Grad behalf of all attorneys of record associated with Customer Number 00490.

All attorneys of record associated with Customer Number 00490 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence of record has been changed and the new address is 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: FREDERICK M. HASS, M.D.
209 PARKVIEW TERRACE
MINNEAPOLIS, MN 55416

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Omnova Solutions Inc
Law Dept Chief I.P. Counsel
175 Ghant Road
Fairlawn OH 44333-3300

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MAR 04 2009

OFFICE OF PETITIONS

In re Application of :
Lock :
Application No. 11/133,939 : ON PETITION
Filed: 05/20/2005 :
Attorney Docket No. 411.19 :

This is a decision on the petition under 37 CFR 1.181, filed October 16, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision on the petition under 37 CFR 1.181 must be submitted with TWO (2) MONTHS of the mailing date of the decision. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

On April 13, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period for reply to avoid abandonment. The above-identified application became abandoned by operation of law on May 14, 2006. On October 4, 2006, the Office mailed a Notice of Abandonment.

In the present petition, petitioner asserts that no reply to the Notice of Non-Compliant Amendment was required in this application and that the Notice of Abandonment was sent in error. Specifically, petitioner asserts:

> On April 18, a teleconference with Mr. Davis was conducted. During the teleconference, it was pointed out that OG 060105 specified that amendments to the claims would be accepted if text was included in the cancelled claims. Mr. Davis agreed that an error had been made and that the notice of non-compliance would be removed. An e-mail letter was also sent to Mr. Davis. A copy of this letter is attached as Exhibit B and a copy of OG 060105 is attached as Exhibit C. ...

> On October 4, 2006, Examiner La issued a notice of abandonment for failure to respond to the notice of non-compliance. Attempts were made to contact Mr. Davis, however his phone number is no longer active and it appears the he no longer works for the USPTO.
>
> The Applicant submits that a reply is not necessary because the amendment and response of April 4, 2006 was not defective. The only reason that Mr. Davis issued a notice of non-compliance was due to the inclusion of text with canceled claims 5 and 6. As discussed above OG 060105 allows for the inclusion of text in canceled claims. Thus, the amendment and response of April 4, 2006 should be acceptable and the notice of non- compliant amendment by Mr. Davis was made in error for the reasons specified above.

Petition, p 2.

Pursuant to 37 CFR 1.135:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment [37 CFR 1.153(a)] must include such complete and proper reply as the condition of the application may require...

In this instance, petitioner did not file a reply in writing to the Notice of Non-Compliant Amendment within the one-month extendable period in accordance with 37 CFR 1.135. Consequently, the application became abandoned for failure to timely and properly respond to the outstanding Notice of Non-Compliant Amendment. The Office reminds petitioner that it was petitioner's responsibility to submit a timely and proper response to the Notice of Non-Compliant Amendment to save the application from abandonment. Even if petitioner questioned the accuracy of the Notice of Non-Compliant Amendment, petitioner was required to file either an appropriate reply to the Notice or a written and signed statement setting forth any believed errors in the Notice. As stated above, petitioner asserts that he had a telephone conference with Examiner Davis, in which the Examiner agreed that an error had been made, and that the Notice of Non-Compliant Amendment would be removed, and that petitioner had sent an e-mail to the Examiner on April 18, 2006. Although petitioner submitted a copy of this email with the petition, the email communication has not been located in the official record. With regard to petitioner's assertion that the examiner stated that an error was made in the Notice of Non-Compliant Amendment and that the Notice would be removed, there is no showing in the written record to support that assertion.

It is important to note that even if the Office had received the email communication of April 18, 2006, it does not constitute a proper reply or a written statement requesting reconsideration in order to save the application from abandonment. Where a written authorization is given by the applicant, communications via Internet e-mail, other than those under 35 U.S.C. 132 or which otherwise

require a signature, may be used. MPEP 502.03(II). However, a reply to an Office action may NOT be communicated by applicant to the USPTO via Internet e-mail. Id. If such a reply is submitted by applicant via Internet e-mail, a paper copy will be placed in the appropriate patent application file with an indication that the reply is NOT ENTERED. Id. The Office reminds petitioner that as stated in 37 CFR 1.2, all business with the USPTO should be transacted in writing. The action of the USPTO 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.

While this is an unfortunate situation, the Office is nonetheless precluded from granting the requested relief. The responsibility was that of petitioner to submit a timely and proper written response to the Notice of Non-Compliant Amendment to the USPTO by an acceptable means of communication, and petitioner failed so to do. As such, the showing of record is that the abandonment resulted from the failure of petitioner to submit a timely and proper response to the Notice of Non-Compliant Amendment. Accordingly, the application is properly held abandoned.

In view of the circumstances, petitioner may wish to consider filing a petition to revive the application due to unintentional delay pursuant to 37 CFR 1.137(b).

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

Conferee: Anthony Knight, Supervisor

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lock :
Application No. 11/133,939 :
Filed: 05/20/2005 :
Attorney Docket No. 411.19 :

This is a decision on the petition under 37 CFR 1.181, filed October 16, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision on the petition under 37 CFR 1.181 must be submitted with TWO (2) MONTHS of the mailing date of the decision. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

On April 13, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period for reply to avoid abandonment. The above-identified application became abandoned by operation of law on May 14, 2006. On October 4, 2006, the Office mailed a Notice of Abandonment.

In the present petition, petitioner asserts that no reply to the Notice of Non-Compliant Amendment was required in this application and that the Notice of Abandonment was sent in error. Specifically, petitioner asserts:

> On April 18, a teleconference with Mr. Davis was conducted. During the teleconference, it was pointed out that OG 060105 specified that amendments to the claims would be accepted if text was included in the cancelled claims. Mr. Davis agreed that an error had been made and that the notice of non-compliance would be removed. An e-mail letter was also sent to Mr. Davis. A copy of this letter is attached as Exhibit B and a copy of OG 060105 is attached as Exhibit C. ...
>
> On October 4, 2006, Examiner La issued a notice of abandonment for failure to respond to the notice of non-compliance. Attempts were made to contact Mr. Davis,

> however his phone number is no longer active and it appears the he no longer works for the USPTO.
>
> The Applicant submits that a reply is not necessary because the amendment and response of April 4, 2006 was not defective. The only reason that Mr. Davis issued a notice of non-compliance was due to the inclusion of text with canceled claims 5 and 6. As discussed above OG 060105 allows for the inclusion of text in canceled claims. Thus, the amendment and response of April 4, 2006 should be acceptable and the notice of non- compliant amendment by Mr. Davis was made in error for the reasons specified above.

Petition, p 2.

Pursuant to 37 CFR 1.135:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment [37 CFR 1.153(a)] must include such complete and proper reply as the condition of the application may require...

In this instance, petitioner did not file a reply in writing to the Notice of Non-Compliant Amendment within the one-month extendable period in accordance with 37 CFR 1.135. Consequently, the application became abandoned for failure to timely and properly respond to the outstanding Notice of Non-Compliant Amendment. The Office reminds petitioner that it was petitioner's responsibility to submit a timely and proper response to the Notice of Non-Compliant Amendment to save the application from abandonment. Even if petitioner questioned the accuracy of the Notice of Non-Compliant Amendment, petitioner was required to file either an appropriate reply to the Notice or a written and signed statement setting forth any believed errors in the Notice. As stated above, petitioner asserts that he had a telephone conference with Examiner Davis, in which the Examiner agreed that an error had been made, and that the Notice of Non-Compliant Amendment would be removed, and that petitioner had sent an e-mail to the Examiner on April 18, 2006. Although petitioner submitted a copy of this email with the petition, the email communication has not been located in the official record. With regard to petitioner's assertion that the examiner stated that an error was made in the Notice of Non-Compliant Amendment and that the Notice would be removed, there is no showing in the written record to support that assertion.

It is important to note that even if the Office had received the email communication of April 18, 2006, it does not constitute a proper reply or a written statement requesting reconsideration in order to save the application from abandonment. Where a written authorization is given by the applicant, communications via Internet e-mail, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used. MPEP 502.03(II). However, a reply to an Office action may NOT be communicated by applicant to the USPTO via Internet e-mail. Id. If such a reply is submitted by

applicant via Internet e-mail, a paper copy will be placed in the appropriate patent application file with an indication that the reply is NOT ENTERED. Id. The Office reminds petitioner that as stated in 37 CFR 1.2, all business with the USPTO should be transacted in writing. The action of the USPTO 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.

While this is an unfortunate situation, the Office is nonetheless precluded from granting the requested relief. The responsibility was that of petitioner to submit a timely and proper written response to the Notice of Non-Compliant Amendment to the USPTO by an acceptable means of communication, and petitioner failed so to do. As such, the showing of record is that the abandonment resulted from the failure of petitioner to submit a timely and proper response to the Notice of Non-Compliant Amendment. Accordingly, the application is properly held abandoned.

In view of the circumstances, petitioner may wish to consider filing a petition to revive the application due to unintentional delay pursuant to 37 CFR 1.137(b).

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Supervisor

PTO/SB/122 (01-06)
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CHANGE OF CORRESPONDENCE ADDRESS
Application

Address to:
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Application Number	10/538,301
Filing Date	14 November 2003 (Int'l)
First Named Inventor	McBain, D.
Art Unit	1732
Examiner Name	Johnson, C.A.
Attorney Docket Number	OMNZ 2 00020 US (263)

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OCT 17 2006

Please change the Correspondence Address for the above-identified patent application to:

☐ The address associated with Customer Number: _____

OR

☑ Firm or Individual Name: OMNOVA Solutions Inc.

Address: Law Dept., Chief I.P. Counsel
175 Ghent Road

City: Fairlawn	State: Ohio	Zip: 44333-3300
Country: USA		
Telephone: 330 / 869-4260	Email: iplaw@omnova.com	

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

☐ Applicant/Inventor

☑ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____.

Signature: /jcl/	
Typed or Printed Name: James C. LeMay	
Date: 17 October 2006	Telephone: 330 / 869-4250

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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MAY 10 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Lock
Application No. 11/133,939
Filed: 05/20/2005
Attorney Docket No. 411.19

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

On April 13, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period for reply to avoid abandonment. The above-identified application became abandoned by operation of law on May 14, 2006. On October 4, 2006, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2612 for appropriate action.

Telephone inquiries concerning this decision 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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MARGER JOHNSON & MCCOLLOM
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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OCT 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Paul Bello	:	DECISION ON PETITION
Application No. 11/133,941	:	TO MAKE SPECIAL UNDER
Filed: May 20, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. 1985-007	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 20, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Paul Bello 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.

The application is being forwarded to the Technology Center Art Unit 3746 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Marc G. Caron	: DECISION ON REQUEST FOR
Patent Number	: 7585627	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/133,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **42** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of :
Ng, et al. :
Application No. 11/133,970 :
Filed: May 20, 2005 :
Attorney Docket No. 04280/100M453-US2 :

DECISION GRANTING PETITION

This is a decision on the petition filed June 21, 2005, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed June 15, 2005.

On May 20, 2005, the application was deposited.

On June 15, 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 21, 2005. Petitioner appears to concede that the drawings did not accompany the original disclosure filed April 25, 2005, but maintains that the subject application incorporated by reference the entirety of prior 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 24 and 25 are 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 May 20, 2005.

The petition fee of $400.00 will be refunded, in due course.

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 May 20, 2005. Thereafter, the application will be directed to Technology Center 1600, GAU 1614 for treatment of the preliminary amendment filed June 21, 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

Commissioner for Patents
United States Patent and Trademark Office
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JUN 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Cooley et al.	:	
Application No. 11/133,981	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. TFL 301	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and a Terminal Disclaimer, (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 3689 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAILED SEP 27 2005

Bernard S. Hoffman
Suite 7F
460 Old Town Road
Port Jefferson Station, NY 11776

In re Application of
KENNY, DANIELE J.
Application No.: 11/134,011
Filed: May 20, 2005

: **DECISION ON**
: **PETITION TO**
: **MAKE SPECIAL**
:

This is a decision on the petitions filed July 7, 2005 and August 29, 2005 to make the above noted application special. It is noted that the petition filed July 7, 2005 was filed as a petition under 37 CFR 1.181 but is being treated as a petition to make special under 37 CFR 1.102(d).

Since the requirements of 37 CFR 1.102(d) and MPEP 708.02, X have been met in the petitions of July 7, 2005 and August 29, 2005, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (571) 272-4391

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OCT 26 2005

Paper No. 22

Bernard S. Hoffman
460 Old Town Road, Suite 7F
Port Jefferson Station
NEW YORK 11776

In re Application of
Daniele J. Kenny
Application No.: 11/134,011
Filed: May 20, 2005
Attorney Docket No.: Kenny
For: NEPOLASTIC CELL DESTRUCTION DEVICE
UTILIZING LOW FREQUENCY SOUND WAVES
TO DISRUPT OR DISPLACE CELLULAR MATERIALS

ON PETITION

This is a decision on the request, filed October 03, 2005, to recuse Examiner Ruth Smith as the Patent Office Examiner in the above-identified application on the grounds that Examiner Smith has failed to handle the application in a timely manner. The request is being handled as a petition under 37CFR 1.181(a)(3).

The petition to recuse Examiner Ruth Smith as the Patent Office Examiner in the above-identified application is **DISMISSED**.

The above-identified application has not received a first office action and the petitioner has provided no evidence to support an assertion of mishandling of the above-identified application or any related applications by Examiner Smith. Furthermore, a petition to make the above-identified application special, filed July 07, 2005, has been granted. The application has been placed on the examiner's docket and will examined out of turn with respect to the examiner's regular docket of applications, but in order with respect to any other "special" applications the examiner may have, as set forth in MPEP 708.

Frederick Schmidt
Director, Technology Center 3700

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DIW Apr-08

BERNARD S. HOFFMAN
10 COLGATE STREET
PORT JEFFERSON STATION NY 11776

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APR 23 2008

OFFICE OF PETITIONS

In re Application of :
Daniele J. Kenny :
Application Number: 11/134011 : DECISION ON PETITION
Filing Date: 05/20/2005 :
Attorney Docket Number: Kenny :

This is a decision on the petition filed on March 27, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on June 24, 2007, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on April 23, 2007, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 14, 2007.

An appeal brief and the required fee have been filed as the required reply.

---

[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)).

This application is being referred to Technology Center Art Unit 3737 for review of the appeal brief.

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
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Bernard S. Hoffman
10 Colgate Street
Port Jefferson Station NY 11776

In re Application of:
KENNY, DANIELE J.
Serial No.: 11/134,011
Filed: May 20, 2005
Docket: KENNY
Title: NEOPLASM CELL DESTRUCTION DEVICE

DECISION ON PETITION

This is a decision on the petition filed Sep. 11, 2008 under 37 CFR 1.181 requesting Examiner's Answer be mailed. In the petition, petitioner requests the examiner to issue an Examiner's Answer after five months from the date of the decision granting the revival of the application. The petition is being considered under 37 CFR 1.181 and no fee is required.

The petition is **Granted**.

In finding petitioner's points of argument persuasive, the requested relief is granted. The examiner was instructed to consider the Appeal Brief of Mar. 27, 2008 and timely set up an appeal conference under M.P.E.P. §1207.01. At the conclusion of the Appeal Conference, the examiner also has been directed to promptly issue an Examiner's Answer in accordance with MPEP § 1207. The examiner is reminded that the Office policy requires examiners to work on the applications with the oldest effective US filing dates in strict compliance of MPEP 708[1]. Additionally, this application was accorded with "special" status as approved in the petition decision of Sep. 27, 2005, then, priority in consideration of the appeal brief must be given.

The application will be forwarded to the examiner via the Supervisor of Art Unit 3737 for preparation of appeal conference and subsequent examiner's answer. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

[1] Relevant portion of MPEP 708 Order of Examination states: Each examiner will give priority to that application in his or her docket, whether amended or new, which has the oldest effective U.S. filing date. Except as rare circumstances may justify Technology Center Directors in granting individual exceptions, this basic policy applies to all applications.

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of
Cook et al.
Application No. 11/134013
Filing Date 05/20/2005
Attorney Docket Number:
25791.360

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 5, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

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 July 18, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) 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 3672 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Francis B. Brake JR.	: DECISION ON REQUEST FOR
Patent Number	: 7660763	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,018	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: 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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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Syed M. Ali	: DECISION ON REQUEST FOR
Patent Number	: 7634766	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,021	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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Townsend And Townsend And Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
GHODOUSSI et al. :
Application No. 11/134,041 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 022001-002711US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish has been revoked by the assignee of the patent application on May 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucei
Petitions Examiner
Office of Petitions

cc: Intuitive Surgical Inc.
PATENT DEPARTMENT
950 Kifer Road
Sunnyvale, CA 94086

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LAW OFFICE OF
PAUL W. FULBRIGHT, PLLC
2003 J.J. PEARCE DRIVE
RICHARSON TX 75081-5447

In re Application of :
Harrison, et al, :
Application No. 11/134,042 : DECISION
Filed: 19 May, 2005 :
Attorney Docket No. 00007.0019 :

This is a decision on the renewed petition filed on 26 November, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES: Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

BACKGROUND

The record reflects that:

- Applicant, failed to reply timely and properly to the Restriction Requirement mailed on 10 January, 2007, with reply due absent an extension of time on or before 10 February, 2007;
- the application went abandoned after midnight 10 February, 2007;
- the Office mailed the Notice of Abandonment on 25 September, 2007;

- on Monday, 26 November, 2007, Petitioner filed the instant petition with, *inter alia*, an averment of non-receipt and search of the file, and submitted copies of what are averred to be the file jacket cover , index and docket sheet (Exhibits 1B, 1C and 1D), and an extensive description of his office system, however, Petitioner has ignored the express requirements as discussed as provided in the guidance at the Commentary in MPEP §711.03(c), to wit, in pertinent part:

> ***
>
> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> ***

The MPEP is directing Petitioner to present to the Office a copy of the docket report for the due date of the reply, and showing all files with a reply due on that date. Thus, Petitioner can evidence that the Notice in question was not simply misfiled.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

---

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Petitioner appears not to have satisfied showing requirement herein as discussed in the BACKGROUND, above (to wit: docket report for the due date of the reply)—note the quoted text of the guidance at the Commentary in MPEP §711.03(c),.

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John A. Gillon, Jr.
Senior Attorney
Office of Petitions

8. The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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RICHARSON TX 75081-5447

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SEP 02 2008

In re Application of :
Harrison, et al, :
Application No. 11/134,042 : DECISION
Filed: 19 May, 2005 :
Attorney Docket No. 00007.0019 :

This is a decision on the petition filed on 28 May, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office. Petitioner's attention is drawn to the guidance in the Commentary at MPEP §711.03(c).[1]

---

[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

*****

I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based on unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513).

BACKGROUND

The record reflects as follows:

Applicant, failed to reply timely and properly to the Restriction Requirement (copy enclosed) mailed on 10 January, 2007, with reply due absent an extension of time on or before 10 February, 2007.

The application went abandoned after midnight 10 February, 2007.

The Office mailed the Notice of Abandonment on 25 September, 2007.

On 26 November, 2007, Petitioner filed the a petition with, *inter alia*, an averment of non-receipt and search of the file, and submitted copies of what are averred to be the file jacket cover, index and docket sheet (Exhibits 1B, 1C and 1D), however, Petitioner presented insufficient demonstration in support of his averment, and the petition was dismissed on 24 March, 2008.

On 28 May, 2008, Petitioner filed the instant petition (notably, without a certificate of mail/transmission pursuant to 37 C.F.R. §1.8 or §1.10), and argued therein, *inter alia*, that an older test—and one that comparison reveals to be less demanding than the current version—had

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When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).
Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

*****

been used. (For Petitioner's convenience a copy of the entire pertinent discussion of the issue from the current online version of the MPEP §711.03(c) is incorporated herein.) In so arguing, Petitioner has detailed facts previously addressed insufficiently in his original petition, and now makes the showing in concert with the Commentary at MPEP §711.03(c).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (*See*, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **granted** and the 25 September, 2007, Notice of Abandonment is **vacated**.

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

The instant application is released to Technology Center/AU 3663 for further processing in due course—to include the re-mailing of the 10 January, 2007, Office action and resetting of the period for reply thereto.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/134,042	05/19/2005	John H. Harrison JR.	00007.0019	8889

38295 7590 01/10/2007

LAW OFFICE OF PAUL W. FULBRIGHT, PLLC
2003 J.J. PEARCE DRIVE
RICHARSON, TX 75081-5447

EXAMINER	
TO, TUAN C	
ART UNIT	**PAPER NUMBER**
3663	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	11/134,042	HARRISON ET AL.	
	Examiner	Art Unit	
	Tuan C. To	3663	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 October 2006*.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 3-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 3-22 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 May 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Election/Restrictions

1. Upon review of applicant's response dated 10/26/2006, it is noted that a restriction/election is warranted.

2. This application contains claims directed to the following patentably distinct species:

A. The embodiment of figure 3.

B. The embodiment of figure 5.

3. Upon election of species A or B, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable:

a. The embodiment of figure 7.

b. The embodiment of figure 8.

4. The species are independent or distinct because in figure 5, the controller comprises a steering drift compensator module which products an output signal that directs to the summer. In figure 7, the output from control wheel sensor is not directed to the summer (912), but is rather directed to the summer (916). In figure 8, the output from the control wheel sensor is directed to the summer of the vehicle loop and also directed to the steering drift comp. Module (980).

5 Applicant is required under 35 U.S.C 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is

finally held to be allowable. Currently, the independent claims 3, 11, and 19 are generic.

6. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

7. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusions

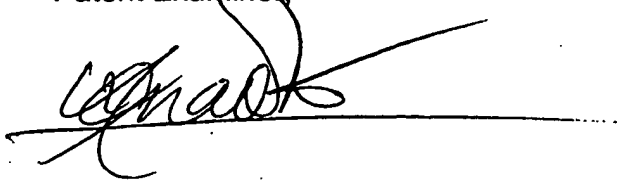
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner,



Tuan C To

January 8, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND, OR 97201

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Mark Miller :
Application No. 11/134,053 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. 1058-007/JRD :

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 10, 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 11, 2005.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John R. Dawson
Ipsolon LLP
805 SW Broadway, #2740
Portland, OR 97205

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
BAKER, et al.	:	
Application No. 11/134,065	:	DECISION GRANTING PETITION
Filed: May 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **559.003US1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 9, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2887 for processing of the request for continued examination under 37 CFR 1.114.

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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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of :
Robert Lance COOK, et al :
Application No. 11/134,095 : DECISION ON PETITION
Filed: May 20, 2005 : TO WITHDRAW
Attorney Docket No. 25791.361 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **NOT APPROVED**.

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.

There is an outstanding Office action mailed February 21, 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: TODD MATTINGLY
KING & SPALDING, LLP
1100 LOUISANA, SUITE 4000
HOUSTON, TX 77002

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MORRISTOWN NJ 07962-2245

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,555,089 :
Raymond G. Faulkner : DECISION ON REQUEST FOR
Issue Date: June 30, 2009 : PATENT TERM ADJUSTMENT
Application No. 11/134,099 :
Filed: May 20, 2005 :
Atty Docket No. H0007723 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed August 5, 2009. Patentee requests review of the Patent Term Adjustment (PTA) determined for the above-identified patent.

The request is **DISMISSED**.

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, to respond to this decision. No extensions of time will be granted under § 1.136(a).

Patentee is advised that § 1.705(d) provides the avenue before the Office for requesting reconsideration of the revised patent term adjustment indicated in the patent. See § 1.702-1.705. Moreover, pursuant to § 1.705(b), this section requires payment of:

(1) The fee set forth in § 1.18(e) ...

The instant paper was timely filed within two months of the issuance of the patent. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under § 1.18(e).

It is further noted that patentee is not eligible to request recalculation of the patent term adjustment using form PTO/SB/131 "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" because more than 180 days has passed since the subject patent issued.

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

Correspondence may also be submitted electronically via EFS-Web.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-2-07

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction on Patent No.: 7076890 B2 (11/134112

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.

Should inventors be added? Thanks Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

OK to add inventors

SPE

Mickey Yu
Supervisory Patent Examiner
Group 3700
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FRANK C. NICHOLAS
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston IL 60201

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of
Nicholas, et al.
Application No. 11/134,116
Filed: May 20, 2005
Attorney Docket No. 7710/20
For: METHOD AND SYSTEM FOR PROVIDING NETWORK BASED TARGET ADVERTISING AND ENCAPSULATION

ON PETITION

This is a decision on the correspondence filed July 1, 2005 (certificate of mailing date Jun 28, 2005), requesting, in effect, withdrawal of a Notice mailed June 22, 2005. The correspondence will be treated under 37 CFR 1.182.

The application was filed on May 20, 2005. However, on June 22, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of May 20, 2005, and advising applicants that figures 24-30 appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that the drawings should be included with the papers filed on May 20, 2005, because they were originally filed in prior application Nos. 60/573,219, 10/657,636, 10/456,826, 10/172,492 the entire disclosure of each were incorporated by reference at the time of this application's filing.

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 items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the 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 items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee) 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, petitioners neither assert that the missing drawings were actually deposited in the PTO on May 20, 2005 with the other application papers nor request a later filing date.

Instead, applicants seek to add the figures to the present application on the basis that the figures are not new matter. However, no petition is necessary for that purpose. Additional figures may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation of divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter.... The 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)

If applicants desire that figures 24-30 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figures. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

A $400.00 petition fee will be charged to deposit account no. 50-1713. The petition fee is required and will not be refunded, since the instant correspondence's filing was not necessitated by any error on the part of the Office.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 20, 2005.

Thereafter, the application will be forwarded to Technology Center G.A.U. 1362 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Dr. Banger Shia
102 Lindencrest Ct.
Sugar Land, TX 77479-5201

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SEP 25 2008

In re Application	:	
Li-Wei Hsu et al.	:	
Application No. 11/134,140	:	DECISION ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. SY-0405-A19 (SY-90)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 5, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 6, 2006. A Notice of Abandonment was mailed on June 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the response 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.

The revocation of power of attorney and change of correspondence address filed on June 12, 2008 is not proper. The Statement under 37 CFR 3.73(b) does not set forth the chain of title and reel and frame numbers from the inventors of the patent application to the current assignee of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received June 12, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/17/07

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/134,174 Patent No: 7253770B2

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: _____

Douglas K. Owen
SPE

2821
Art Unit

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
LEONHARD, Todd W. :
Application No. 11/134,176 : DECISION ON PETITION
Filed: May 20, 2005 : TO WITHDRAW
Attorney Docket No. **926512-101060** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (file responsibility was transferred to attorneys/agents associated with customer number 24658), does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WELSH & KATZ, LTD**
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST., SUTIE 4900
PHILADEPHIA, PA 19103

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AUG 27 2008

In re Application of	:	
Jacob R.S. ANDERSEN	:	
Application No. 11/134,191	:	DECISION ON PETITION
Filed: May 20, 2005	:	TO WITHDRAW
Attorney Docket No. DCL-05-1078	:	FROM RECORD
	:	

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 25, 2008.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. JACOB R.S. ANDERSEN
DRACCO COMPANY LIMITED
UINT 1201-05, 12F, STELUX HOUSE
NO. 698 PRINCE EDWARD ROAD EAST
SAN PO KONG, KOWLOON
HONG KONG

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Date Mailed: October 29, 2008

EMPK & Shiloh, LLP
c/o Landon IP, Inc.
1700 Diagonal Road
Suite 450
Alexandria VA 22314

Applicant: Melnik et al.
Appl. No.: 11/134,200
Filing Date: May 20, 2005
Title: METHOD FOR ACHIEVING LOW DEFECT DENSITY ALGAN SINGLE CRYSTAL BOULES
Attorney Docket No.: P-9465-US
Pub. No.: US 2005/0212001 A1
Pub. Date: September 29, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on October 28, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, **as a Pre-Grant publication submission.**

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 10/30/2008 KKING1
10/29/2008 INTEFSW 00005167 503400 11134200
01 FC:1504 300.00 CR

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Paper No.

MATTHEW D. RABDAU
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Kyle Bernard : DECISION ON PETITION
Application No. 11/134,216 :
Filed: May 20, 2005 :
Attorney Docket No. 7918 US :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 19, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed May 20, 2008. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time timely obtained, the application became abandoned effective August 21, 2008. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2611 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed December 19, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

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FEB 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Kinkaid :
Application No. 11/134,219 : UNDER 37 CFR 1.47(b)
Filed: May 20, 2005 :
Atty. Dkt. No.: ORW301 :
For: SEGMENTED VERTICAL AXIS :
AIR ROTOR AND WIND GENERATOR :
APPARATUS

This decision is in response to the petition under 37 CFR 1.47(a), filed December 21, 2005. This matter is being treated under 37 CFR 1.47(b)

The petition is hereby **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 20, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed June 17, 2005. The Notice required an executed oath or declaration and a surcharge.

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 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; (5) proof of proprietary interest; and (6) a showing that such action is required to

preserve the rights of the parties or to prevent irreparable damages.

The instant petition fails to satisfy lacks requirements (2) and (5) set forth above.

As to item (2), the petition is not accompanied by an oath or declaration executed on behalf of the non-signing inventor. The declaration is unacceptable because it has not been executed on behalf of the non-signing inventor. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

Any renewed petition must be accompanied by a properly executed oath or declaration.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window

Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

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APR 21 2006

OFFICE OF PETITIONS

In re Application of	:
Kinkaid	: DECISION DISMISSING STATUS
Application No. 11/134,219	: UNDER 37 CFR 1.47(b)
Filed: May 20, 2005	:
Atty. Dkt. No.: ORW301	:
For: SEGMENTED VERTICAL AXIS	:
AIR ROTOR AND WIND GENERATOR	:
APPARATUS	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed March 16, 2006.

The petition is hereby **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration 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; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The above-identified application was filed May 20, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed June 17, 2005. The Notice required an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(b) was

filed December 21, 2005 and dismissed February 2, 2006 for failure to meet items (2) and (5) set forth above.

Further review of the record reveals that the instant petition fails to satisfy requirement (1). Petitioner has failed to establish that the non-signing inventor received a copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. Instead, the petition submitted December 21, 2005 indicates that on two occasions, counsel forwarded to Bradley Malsin at Oregon Wind Corporation copies of the application papers with a request that Mr. Malsin have the non-signing inventor execute the application papers. There is also an indication that the non-signing inventor was forwarded a copy of the application papers via e-mail.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

Herein, petitioner has failed to establish that the inventor received the application papers and thereafter refused to execute the oath or declaration. Specifically, a request to have a third party present the application papers to the non-signing inventor without supporting documentation that in fact the non-signing inventor did receive the application papers is not sufficient.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor(s) was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of

letters sent to the inventor(s) indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor(s) receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. Petitioner's attention is directed to MPEP 409.03(d) for further guidance.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PORTLAND, OR 97204

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JUN 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Kinkaid	:	
Application No. 11/134,219	:	DECISION GRANTING STATUS
Filed: May 20, 2005	:	UNDER 37 CFR 1.47(b)
Atty. Dkt. No.: ORW301	:	
For: SEGMENTED VERTICAL AXIS	:	
AIR ROTOR AND WIND GENERATOR	:	
APPARATUS	:	

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed May 15, 2006.

The petition is **GRANTED**.

Petitioner has shown that Inventor Kinkaid has refused to sign oath or declaration after having been presented with the complete application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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CHRISTOPHER P. TOBY KINKAID
2135 SE NEHALEM, SUITE 18
PORTLAND, OR 97202

In re Application of :
Kinkaid :
Application No. 11/134,219 : LETTER
Filed: May 20, 2005 :
Atty. Dkt. No.: ORW301 :
For: SEGMENTED VERTICAL AXIS :
AIR ROTOR AND WIND GENERATOR :
APPARATUS :

COPY MAILED
JUN 22 2006
OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Philip D. Floyd	: DECISION ON REQUEST FOR
Patent Number	: 7657242	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **974** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

12 JUL 2005
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www.uspto.gov

HENKEL CORPORATION
The Triad, Suite 200
2200 Renaissance Blvd.
Gulph Mills, PA 19406

In re Application of:	:	
HOLDERBAUM, et al.	:	
U.S. Application No.: 11/134,224	:	DECISION
Filing Date: 20 May 2005	:	
Attorney's Docket No.: H 5774 PCT/US	:	
For: METHOD FOR PRODUCING WASHING AND CLEANING AGENTS IN THE FORM OF FILLED MOULDED BODIES II	:	

On 23 June 2005, applicants filed a "Petition Under 37 CFR 1.181" seeking to have USPTO records corrected so that specific items identified in the Image File Wrapper (IFW) as "Appendix to the Specification" would be properly identified as English translations of cited references.

A review of the IFW file reveals that the entries at issue are now identified in the IFW file as translations of the foreign refences.

Applicants' petition is therefore **MOOT**.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 04/21/2010

Applicant	: Robert Lustig	: DECISION ON REQUEST FOR
Patent Number	: 7661421	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,233	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1072** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

CHARLES N. QUINN
FOX ROTHSCHILD LLP
2000 MARKET STREET, 10TH FLOOR
PHILADELPHIA PA 19103

In re Application of :
Garrison et al. : DECISION GRANTED
Application No. 11/134,249 :
Filed: January 30, 2006 :
Attorney Docket No.: 76351.00101 :

This is a decision on the petition filed October 2, 2006, requesting the above-identified application be accorded a filing date of May 20, 2005 rather than the presently accorded filing date of January 30, 2006.

The application was filed on May 20, 2005. However, on February 16, 2006, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of May 20, 2005 but a substitute specification was required.

In response, a substitute specification and drawings were submitted on January 30, 2006.

Review of the record shows a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) were present in the Office on May 20, 2005. Further review of the record shows that the filing date was incorrectly changed to the date the reply to the Notice to File Corrected Application Papers was submitted (January 30, 2006).

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of May 20, 2005**.

Telephone inquiries related to this decision may be directed to

the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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OFFICE OF PETITIONS

In re Application of :
IWAZAKI, et al. :
Application No. 11/134,301 : DECISION GRANTING PETITION
Filed: May 23, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **124023** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3661 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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ALEXANDRIA VA 22320-4850

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OFFICE OF PETITIONS

In re Application of	:	
Naoki Kurata et al.	:	
Application No. 11/134,302	:	DECISION GRANTING PETITION
Filed: May 23, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123963	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 12, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Kelly G. Ammann	: DECISION ON REQUEST FOR
Patent Number	: 7666681	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WASHINGTON DC 20006

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In re Application of :
Earl et al. :
Application No. 11/134,358 : ON APPLICATION FOR
Filed: May 23, 2005 : PATENT TERM ADJUSTMENT
Atty. Docket No. 2203845-156US7 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705 filed December 10, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent should be a minimum of one thousand two hundred twenty-one (1,221) days, not seven hundred three (703) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/134,384	05/23/2005	Seung-Hun Chae	P57496	2800

7590 10/23/2009

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER	
NGUYEN, JENNIFER T	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
10/23/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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OFFICE OF PETITIONS

JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN, VA 22971

In re Application of	:	
Lee et al.	:	
Application No. 11/134,397	:	DECISION ON PETITION
Filed: May 23, 2005	:	
Attorney Docket No. 7000.101	:	

This is a decision on the petition, filed October 28, 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 respond to the non-final Office action mailed August 15, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 15, 2007, with a three (3) month extension of time.

Petitioner asserts that a timely reply was submitted on February 15, 2007, which included the following papers: a petition for a three (3) month extension of time and an amendment. Petitioner has submitted a copy of the previously filed correspondence.

A review of the file record indicates that a response including a three-month extension of time was received by the Office on February 15, 2007, therefore rendering the reply timely.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of February 23, 2007, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1621 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DR. MARK M. FRIEDMAN
C/O BILL POLKINGHORN - DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

In re Application of :
Yehoshua Yeshurun, et. al. :
Application No. 11/134,411 : ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. 1975/52 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed December 30, 2009, to withdraw the holding of abandonment in the above-identified application.

A review of the record shows that a non-final Office action was mailed on June 12, 2009, setting a period of three months from the mailing date of the Office action in which to respond. In response, an amendment and $555 for a three months extension of time was filed, by the Electronic Filing System (EFS-Web System), on December 10, 2009. On December 18, 2009, an Email Notification was sent to the attorneys/agents of record informing them that the above-identified application is abandoned for failure to timely file a response to the Office action mailed June 12, 2009.

Since the record clearly shows that a reply and a three month extension of time was timely filed on December 10, 2009, the petition is **granted**.

The holding of abandonment is hereby withdrawn and the Notice of Abandonment is hereby vacated.

This application file is being referred to Technology Center Art Unit 3763 for review of the amendment filed on December 10, 2009.

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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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Hiroshi Hashimoto	: DECISION ON REQUEST FOR
Patent Number	: 7635653	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **367** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/134,444	05/23/2005	Nicolas Flandrin	612.45057X00	2495

20457 7590 07/23/2009

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER	
JACOB, MARY C	

ART UNIT	PAPER NUMBER
2123	

MAIL DATE	DELIVERY MODE
07/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of:
FLANDRIN, NICOLAS et al.
Application No. 11/134,444
Filed: May 23, 2005
For: METHOD OF GENERATING A CONFORMING HYBRID GRID IN THREE DIMENSIONS OF A HETEROGENEOUS FORMATION CROSSED BY ONE OR MORE GEOMETRIC DISCONTINUITIES IN ORDER TO CARRY OUT SIMULATIONS

DECISION ON PETITION UNDER 37 CFR 1.181 TO INVOKE SUPERVISORY REVIEW

This is a decision on the petition, filed February 3, 2009 under 37 CFR 1.181 to reset the shortened statutory period of response to the office action of October 24, 2008.

RECENT PROSECUTION BACKGROUND

October 24, 2008	-Final rejection mailed.
February 3, 2009	-Petition under 1.181 filed.
April 16, 2009	-Request for Continued Examination filed.

RELIEF REQUESTED

Petitioner filed the instant petition on February 3, 2009 requesting the shortened statutory period of response to the office action of October 24, 2009 be reset.

REVIEW OF FACTS

In the absence of any apparent irregularities associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received at the correspondence address of record.

The relevant portion of MPEP § 711.03(c) states:

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

In support of the petition, Petitioner provided the following:

(1) A statement by Applicant's representative that the Final Rejection issued on October 24, 2008 was not received by the Applicant as evidenced by the "Docket Events" records.

(2) Manual docketing entries maintained by the above law firm for January 24, 2009. The docket record lists Applications with a response due date of January 24, 2009, and shows no entry reflecting a response due date corresponding to the Final Rejection mailed October 24, 2008

(3) Computer docketing records maintained by Practitioner's firm for the instant application run on February 2, 2009. The docket record shows no entry corresponding to the above Final action.

It is noted that the Practitioner has not provided an explicit statement that "*a search* of the practitioner's records .... indicates that the Office Action was not received" , as set forth in MPEP § 711.03(c) . However, the submission of the computer docketing records for the instant application is taken as representation by the Practitioner that a search of practitioner's record(s) has been performed as required above.

For the above-stated reasons, the petition is GRANTED. Accordingly, the shortened statutory period that was originally set forth in the Office action mailed on October 24, 2008 is hereby reset to run from the date of February 2, 2009, the first day of the week when Petitioner first became aware of the final Office action, as asserted in the instant petition.

A review of the application file indicates that a Request for Continued Examination (RCE) and a request for extension of time to permit the filing of RCE were filed on April 16, 2009. Since the shortened statutory period has been reset to run from 02 February 2009, the fee ($1,110.00) for three-month extension of time is not required. The amount of $1,100.00 will be credited to Deposit Account No. 01-2135.

Any inquiry concerning this decision should be directed to the undersigned at (571)272-3719.

/Kakali Chaki/

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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P.O. BOX 7037
ATLANTA GA 30357-0037

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OFFICE OF PETITIONS

In re Application of :
John E. Thompson et al. :
Application No. 11/134,445 : DECISION DISMISSING PETITIONS
Filed: May 23, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. S291 1056.2 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED** .

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 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 information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The claim of priority to the various provisional and non-provisional applications set forth in the petition rests entirely on the instant application's claim of priority to the Application 10/861,980. The '980 application became abandoned on December 23, 2004. The instant application was filed on May 23, 2005. The instant application was therefore not copending with the '980 application, thereby rendering the priority claim to the '980 application unacceptable in view of the of the co-pendency requirement of 37 CFR 1.78(a)(1). It is further noted that the '980 application fails to claim priority to the application 10/792,893. Additionally, the application 10/383,614 does not claim priority to the application 10/277,969.

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. The instant petition fails to state the relationship between the applications 11/078,526 and 11/287,460. Also, the status (if it is patented or abandoned) of each non-provisional parent application (10/792,893, 11/078,526 and 11/287,460) 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.

Additionally, the amendment 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). The amendment to the specification filed concurrently with the instant petition, improperly incorporates by reference all the provisional applications referenced therein as well as the non-provisional applications 11/078,526 and 11/287,460.

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required. Any reply must delete the improper incorporation by reference.

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 Ramesh Krishnamurthy at (571) 272-4914.

David Bucei
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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DEC 3 1 2008

OFFICE OF PETITIONS

In re Application of :
John E. Thompson et al. :
Application No. 11/134,445 : DECISION ON PETITIONS
Filed: May 23, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. S291 1056.2 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 22, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED** .

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 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 information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The claim of priority to the various provisional and non-provisional applications set forth in the petition rests on the claim of priority in application 11/078,526 as a continuation of the Application 10/792,893. The '893 application became abandoned on October 14, 2004. The '526

application was filed on March 14, 2005. The '526 application was therefore not copending with the '893 application, thereby rendering the priority claim to the '893 application unacceptable in view of the of the co-pendency requirement of 37 CFR 1.78(a)(1).

In regard to petitioner's comments concerning the priority claim of the application 10/383,614 to the application 10/277,969, it is noted that the amendment submitted May 22, 2006 in the '614 application does include a reference to the '969 application. However, the priority claim(s) included in that amendment should have been filed as part of a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications. Furthermore, that amendment did not explicitly state the relationship between the '614 and '969 applications. Thus, the priority claim in the '614 application to the '969 application as stated in the amendment submitted May 22, 2006 in the '614 application is improper and cannot be accepted.

Furthermore, the benefit claim as written for the provisional application 60/504,731 is improper since a provisional application may not claim the benefit of any other application. See 35 USC 111 (b)(7).

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914.

Anthony Knight
Supervisor
Office of Petitions

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Baker Donelson Bearman, Caldwell & Berkowitz, PC
555 Eleventh Street, NW, Sixth Floor
Washington DC 20004

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OCT 26 2009

OFFICE OF PETITIONS

In re Application of :
John E. Thompson et al. :
Application No. 11/134,445 : DECISION ON PETITIONS
Filed: May 23, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. S291 1056.2 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED** .

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 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 information where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3).

In regard to item (3), the petition is unacceptable as it not properly signed. The signature of C.G. Moore does not comply with 37 CFR 1.4(d)(2)(iii). In preparing a renewed petition, petitioner should take note of the deficiencies in the instant petition listed below.

In regard to the priority claim of the application 10/383,614 to the application 10/277,969, as stated in the instant petition, it is noted that priority was not timely claimed in the '614 application. The priority claim(s) included in the amendment to the '614 application should have been filed as part of a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications. Furthermore, the amendment must explicitly state the relationship between the '614 and '969 applications. Thus, the priority claim in the '614 application to the '969 application as stated in the amendment submitted May 22, 2006 in the '614 application is improper and cannot be accepted.

Additionally, in the amendment filed concurrently with the instant petition, application 10/200,148 is listed as having matured into the patent 6,728,209. However, application 10/200,148 is currently pending. Appropriate correction is required.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

The surcharge paid under 37 CFR 1.17(t) is unnecessary in a renewed petition and will be credited to the Deposit Account No. 50 – 4254, as authorized.

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

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Mail Stop Petitions
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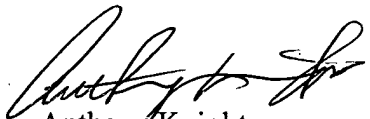
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914.



Anthony Knight
Supervisor
Office of Petitions

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555 Eleventh Street, NW, Sixth Floor
Washington DC 20004

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of :
John E. Thompson et al. :
Application No.: 11/134,445 : DECISION ON PETITION
Filed: May 23, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: 2912940-015000 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A Corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Ramesh Krishnamurthy at (571) 272-4914. 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 1635 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/134,445	05/23/2005	1635	1770	2912940-015000	28	3

CONFIRMATION NO. 2549

CORRECTED FILING RECEIPT

84331
Baker Donelson Bearman, Caldwell & Berkowitz, PC
555 Eleventh Street, NW, Sixth Floor
Washington, DC 20004

Date Mailed: 03/23/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John E. Thompson, Waterloo, CANADA;
Bruce C. Galton, Madison, NJ;
Catherine Taylor, Waterloo, CANADA;
Charles Dinarello, Boulder, CO;
Leonid Reznikov, Aurora, CO;
Adrienne Boone, Waterloo, CANADA;
Marianne Hopkins, New Hamburg, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 84331

Domestic Priority data as claimed by applicant

This application is a CON of 10/861,980 06/07/2004 ABN
which claims benefit of 60/504,731 09/22/2003
and claims benefit of 60/476,194 06/06/2003
and claims benefit of 60/528,249 12/10/2003
and claims benefit of 60/557,671 03/31/2004
and is a CIP of 10/383,614 03/10/2003 PAT 7,381,708
which claims benefit of 60/451,677 03/05/2003
and is a CIP of 10/277,969 10/23/2002 PAT 7,217,517
which is a CIP of 10/200,148 07/23/2002
which is a CIP of 10/141,647 05/07/2002 PAT 7,166,467
which is a CIP of 09/909,796 07/23/2001 PAT 6,867,237

Foreign Applications

If Required, Foreign Filing License Granted: 06/16/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/134,445**

Projected Publication Date: None.

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Inhibition of apoptosis-specific eIF-5A ("eIF-5A1") with antisense oligonucleotides and siRNA as anti-inflammatory therapeutics

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/134,459	05/23/2005	Shigeyuki Kitazawa	02860.0939

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

DATE MAILED: November 22, 2006

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d) filed on November 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

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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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Elder, Islam, and Yestrebsky :
Application No. 11/134,468 : DECISION ON PETITION
Deposited May 23, 2005 :
Attorney Docket No. MIC-M-5631-1P-R :

This is in response to the petition under 37 CFR 1.47(a), filed May 23, 3005.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

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 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 CFR 1.136(a).

On December 2, 2003, U.S. Patent No. 6,658,239, issued to Elder, Islam, and Yestrebsky. On May 23, 2005, applicant deposited a broadening reissue application for Patent No. 6,658,239, which was assigned application No. 11/134,468 (the present application).

On May 23, 2005, applicant filed the present petition under 37 CFR 1.47(a). The petition is accompanied by a "Reissue Application Declaration by the Inventor," signed by joint inventor Islam. The petition proffers a showing, including a supporting declaration of Brian D. Ogonowsky and letters to the non-signing inventors, for the purpose of establishing:

(a) that applicant mailed to the two non-signing inventors (Elder and Yestrebsky), at their last known addresses, copies

of the reissue application, the declaration, and the assignment; and,

(b) the two non-signing inventors refused to sign the documents.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The present petition does not satisfy requirement (2).

Applicant failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because the alteration of Islam's citizenship from USA to Bangladesh is **not initialed and dated.**[1] The Manual of Patent Examining Procedure states: "The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed."[2] Furthermore, "[a]ny changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. 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]

To correct the deficiency in the declaration, applicant must submit a supplemental oath or declaration (by Islam) pursuant to 37 CFR 1.175 with any request for reconsideration.

The $200.00 petition fee will be charged to applicant's Deposit Account as authorized.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Petitions Attorney:**

---

[1] "Any interlineation, 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 602.01.

[3] MPEP 605.04(a).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Elder, Islam and Yestrebsky :
Application No. 11/134,468 :
Deposited: May 23, 2005 :
Attorney Docket No. MIC-M-5631-1P-R :

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.183, filed November 7, 2005, requesting waiver of the requirement under 37 CFR 1.175 to submit a supplemental oath or declaration signed by a joint inventor. Applicants obtained an extension of time for response within the first month. Thus, the petition is filed timely.

On December 2, 2003, Patent No. 6,658,239, issued to Elder, Islam, and Yestrebsky. On May 23, 2005, applicants deposited a broadening reissue application for Patent No. 6,658,239, which was assigned application No. 11/134,468 (the present application). On May 23, 2005, applicants filed a petition under 37 CFR 1.47(a), accompanied by a "Reissue Application Declaration by the Inventor," signed only by joint inventor Islam and the requisite petition fee.

On August 24, 2005, the Office mailed a decision dismissing the petition under 37 CFR 1.47(a) because applicants failed to submit an oath or declaration in compliance with 37 CFR 1.63. Specifically, the declaration was not acceptable because the alteration of Islam's citizenship from USA to Bangladesh was not initialed and dated. See 37 CFR 1.52(c)(1). The decision instructed applicants to submit a supplemental oath or declaration (by Islam) pursuant to 37 CFR 1.175 with a two-month extendable period from the mailing date of the decision.

On November 7, 2005, applicant submitted the present petition, a $130.00 petitioner fee, a request for a one-month extension of time and a $120.00 extension of time fee. In the present petition, applicants asserted that they could not locate Islam to sign a supplemental oath or declaration. Applicants explained that Islam's address and telephone number changed with no forwarding information. Additionally, applicants stated they sent Islam two (2) emails with a revised supplemental declaration, which he did not answered. Applicants requested that the Office suspend the strict compliance with 37 CFR 1.63 because the non-compliance of 37 CFR 1.63 is of a minor nature.

Initially, the Office notes that applicants have a suitable remedy on hand for their predicament that does not require the extraordinary remedy of invoking 37 CFR 1.183. Applicants are reminded that the Office will not normally consider an extraordinary remedy when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664 (Comm'r Pat. 1982).

As set forth in Section 409.03(b) of the Manual of Patent Examining Procedure, an applicant is permitted to file a petition under 37 CFR 1.47(b) and 35 U.S.C. 118 when no inventor is available to make application (*i.e.*, sign the oath or declaration required by 37 CFR 1.63 and 1.64 or 1.175). These provisions allow a "person" with a demonstrated proprietary interest to make application "on behalf of and as agent for" an inventor who "cannot be found or reached after diligent effort" or who refuses to sign the application oath or declaration. In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited pursuant to 37 CFR 1.47(b) must meet the following requirements: (1) proof that the non-signing inventor(s) 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(s); (5) proof of proprietary interest; and, (6) proof of irreparable damage.[1]

In view of above, the Office will not waive the requirements of 37 CFR 1.175. To correct the deficiency, applicant must file a petition under 37 CFR 1.47(b) on behalf of the three (3) non-signing joint inventors within two (2) month of the mailing date of this decision. No additional fee for filing a petition under 37 CFR 1.47(b) is necessary. Any extensions of time will be governed by 37 CFR 1.136(a).

Applicants submitted a $130.00 fee for the filing of the present petition under 37 CFR 1.183; however, the current petition fee is $400.00. Therefore, the Office charged applicants' Deposit Account for the difference in the amount of $270.00. The Office will not refund the $400.00 petition fee because the filing of the present petition was not due to any USPTO error.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

[1] See MPEP 409.03(b) for a discussion of the requirements pursuant to 37 CFR 1.47(b).

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
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SAN JOSE CA 95134

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of :
Elder, Islam and Yestrebsky :
Application No. 11/134,468 : DECISION ON PETITION
Deposited: May 23, 2005 :
Attorney Docket No. MIC-M-5631-1P-R :

This is in response to the petition under 37 CFR 1.47(b), filed January 10, 2006.

On December 2, 2003, Patent No. 6,658,239, issued to Elder, Islam, and Yestrebsky. On May 23, 2005, applicants deposited a broadening reissue application for Patent No. 6,658,239, which was assigned application No. 11/134,468 (the present application). On May 23, 2005, applicants filed a petition under 37 CFR 1.47(a), accompanied by a "Reissue Application Declaration by the Inventor," signed only by joint inventor Islam and the requisite petition fee.

On August 24, 2005, the Office mailed a decision dismissing the petition under 37 CFR 1.47(a) because applicants failed to submit an oath or declaration in compliance with 37 CFR 1.63. Specifically, the declaration was not acceptable because the alteration of Islam's citizenship from USA to Bangladesh was not initialed and dated. See 37 CFR 1.52(c)(1). The decision instructed applicants to submit a supplemental oath or declaration (by Islam) pursuant to 37 CFR 1.175 with a two-month extendable period from the mailing date of the decision.

On November 7, 2005, applicant submitted a petition under 37 CFR 1.183, a petition fee, a request for a one-month extension of time and a $120.00 extension of time fee. Applicants asserted that they could not locate Islam to sign a supplemental oath or declaration. Applicants explained that Islam's address and telephone number changed with no forwarding information. Additionally, applicants stated they sent Islam two (2) emails with a revised supplemental declaration, which he did not answered. Applicants requested that the Office suspend the strict compliance with 37 CFR 1.63 because the non-compliance of 37 CFR 1.63 is of a minor nature.

On December 15, 2005, the Office mailed a decision dismissing the petition under 37 CFR 1.183 and instructing applicants to file a petition under 37 CFR 1.47(b) on behalf of the three (3) non-signing joint inventors. The decision set forth the requirements for a grantable petition under 37 CFR 1.47(b), which are reiterated below. On January 10, 2006, applicants filed the present petition under 37 CFR 1.47(b).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor(s) 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(s); (5) proof of proprietary interest; and, (6) proof of irreparable damage.[1] Applicants failed to meet requirement (5).

As to requirement (5), applicants did not provide proof of irreparable damage. The Office notes that applicants may establish irreparable damage by providing the USPTO with a statement that the filing of the application is necessary to preserve the rights of the party or to prevent irreparable damage. MPEP 409.03(g).

Accordingly, the petition is **dismissed**.

Applicants are given **TWO (2) MONTHS** from the mailing date of this decision to respond, correcting the noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[1] See MPEP 409.03(b) for a discussion of the requirements pursuant to 37 CFR 1.47(b).

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of :
Elder, Islam and Yestrebsky :
Application No. 11/134,468 : DECISION ON PETITION
Deposited: May 23, 2005 :
Attorney Docket No. MIC-M-5631-1P-R :

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 6, 2006.

On December 2, 2003, Patent No. 6,658,239, issued to Elder, Islam, and Yestrebsky. On May 23, 2005, applicants deposited a broadening reissue application for Patent No. 6,658,239, which was assigned application No. 11/134,468 (the present application). On May 23, 2005, applicants filed a petition under 37 CFR 1.47(a), accompanied by a "Reissue Application Declaration by the Inventor," signed only by joint inventor Islam and the requisite petition fee.

On August 24, 2005, the Office mailed a decision dismissing the petition under 37 CFR 1.47(a) because applicants failed to submit an oath or declaration in compliance with 37 CFR 1.63. Specifically, the declaration was not acceptable because the alteration of Islam's citizenship from USA to Bangladesh was not initialed and dated. See 37 CFR 1.52(c)(1). The decision instructed applicants to submit a supplemental oath or declaration (by Islam) pursuant to 37 CFR 1.175 with a two-month extendable period from the mailing date of the decision.

On November 7, 2005, applicant submitted a petition under 37 CFR 1.183, a petition fee, a request for a one-month extension of time and a $120.00 extension of time fee. Applicants asserted that they could not locate Islam to sign a supplemental oath or declaration. Applicants explained that Islam's address and telephone number changed with no forwarding information. Additionally, applicants stated they sent Islam two (2) emails with a revised supplemental declaration, which he did not answered. Applicants requested that the Office suspend the strict compliance with 37 CFR 1.63 because the non-compliance of 37 CFR 1.63 is of a minor nature.

On December 15, 2005, the Office mailed a decision dismissing the petition under 37 CFR 1.183 and instructing applicants to file a petition under 37 CFR 1.47(b) on behalf of the three (3) non-signing joint inventors. On January 10, 2006, applicants filed a petition under 37 CFR 1.47(b); however, applicants did not establish irreparable harm. Therefore, the petition was dismissed by the decision of May 30, 2006.

On June 6, 2006, applicants submitted the present renewed petition under 37 CFR 1.47(b) and a statement of irreparable damage. Accordingly, applicants have meet the requirements under 37 CFR 1.47(b). The petition is **granted**.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to 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
www.uspto.gov

Mr. Scott Elder
1606 Glenwick Dr.
Windermere, FL 34786

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OFFICE OF PETITIONS

In re Application of :
Elder, Islam and Yestrebsky :
Application No. 11/134,468 : DECISION ON PETITION
Deposited: May 23, 2005 :
Attorney Docket No. MIC-M-5631-1P-R :

Dear Mr. Elder:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

PATENT LAW GROUP LLP
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SUITE 223
SAN JOSE CA 95134

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Mohammed Islam
6629 Winder Oaks Blvd.
Orlando, FL 32819-3571

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Elder, Islam and Yestrebsky :
Application No. 11/134,468 : DECISION ON PETITION
Deposited: May 23, 2005 :
Attorney Docket No. MIC-M-5631-1P-R :

Dear Mr. Islam:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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. Y. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PATENT LAW GROUP LLP
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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

Mr. Joseph T. Yestrebsky
2642 Ramsey Dr.
Apopka, FL 32703

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Elder, Islam and Yestrebsky :
Application No. 11/134,468 : DECISION ON PETITION
Deposited: May 23, 2005 :
Attorney Docket No. MIC-M-5631-1P-R :

Dear Mr. Yestrebsky:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

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JAMES W. POTTHAST
LAW OFFICE OF POTTHAST & ACCOCIATES
10606 DEERPATH ROAD
WOODSTOCK IL 60098

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Lassota, Zbigniew G.	:	
Application No. 11/134,482	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. FET-59	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Response to Restriction Requirement, (2) the petition fee, and (3) a proper statement of unintentional delay.

As reflected in this decision, the Change of Correspondence Address has been entered.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3781 for further examination on the merits.

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/11/2010

Applicant	: Jean Farineau	: DECISION ON REQUEST FOR
Patent Number	: 7620012	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/134,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1016** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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AUG 22 2008

In re Application of :
Takeshi Yamasaki et al :
Application No. 11/134,496 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. 09792909-6275

This is a decision on the petition, filed August 20, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 18, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:100709

DATE : October 7, 2009

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,485,730 (11/134,502)

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:

Changes not approved: (1) page 2, column 1, line 12 - incorrect line number; (2) page 1, column 2, line 6 - incorrect line number; (3) column 21, line 4-incorrect line number; (4) columns 21-24, lines 62-67-unclear directions; (5) column 34, line 51-incorrect deleted subject matter; (6) column 38, line 51-incorrect line number; (7) column 38, line 59-incorrect deleted subject matter; (8) column 40, line 32-no change being made; and (9) column 41, line 45-no change being made.

SPE: Joseph K. McKane **Art Unit** 1626

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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
John W. TEMPLER, et al	:	
Application No. 11/134,518	:	DECISION ON PETITION
Filed: May 23, 2005	:	TO WITHDRAW
Attorney Docket No. 17573-002001	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 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).

Babak Akhlaghi has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RICHARD A. RYAN
8497 N. MILLBROOK AVE., SUITE 101
FRESNO, CA 93720

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OFFICE OF PETITIONS

In re Application of :
John Cooper et al :
Application No. 11/134,534 : DECISION ON PETITION
Filed: May 20, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. RAR252.04 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 17, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Inventor Woodrow Wilson's birth certificate showing 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 3635 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARGER JOHNSON & MCCOLLOM,
P.C. - NOVELL
210 SW MORRISON STREET
SUITE 400
PORTLAND OR 97204

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MAR 16 2010

In re Application of :
Carey et al. :
Application No. 11/134,542 :
Filed: May 19, 2005 : ON APPLICATION FOR
Attorney Docket No. 6647-61 : PATENT TERM ADJUSTMENT
(IDR-758) :
Title: SECURE SYSTEMS :
MANAGEMENT :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R § 1.705(b)" filed January 18, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand two hundred eighty (1280) days, not eight hundred twenty-eight (828) 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**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required relative to the petition under 37 CFR 1.705(b).

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].

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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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

054030-0089

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Edwin N. Lightfoot, Jr.

Serial No.: Not yet assigned 11/134553

Group Art Unit: Not yet assigned 1700/1723

Filed: May 20, 2005

Examiner: Not yet assigned Fortuna, A

Title: MEMBRANE CASCADE-BASED SEPARATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madison, Wisconsin
May 20, 2005

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE (37 CFR 1.102(c) AND MPEP § 708.02 IV)

Applicant hereby petitions to make this application special because Applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is:

_____ Applicant's birth certificate

__X__ A declaration by the Applicant that he is over 65 years of age.

No fee is required with this petition, in accordance with 37 CFR § 1.102(c).

Dated: May 20, 2005

Charles L. Leeck
Reg. No.: 50,343

Express Mail Mailing Label Number: EL 914962737 US

Date of Deposit: May 20, 2005

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated above and in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Luanne M. Connor
(Typed or printed name of person mailing paper or fee)

(Signature of person mailing paper or fee)

MW957164_1.DOC

Attorneys for the Applicant
Charles L. Leeck
Registration No. 50,343
GODFREY & KAHN, S.C.
780 North Water Street
Milwaukee, Wisconsin 53202
Tel. No. (414) 273-3500

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
SEP 26 2005

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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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Pal, Debajyoti	:	DECISION ON PETITION
Application No. 11/134,558	:	TO WITHDRAW
Filed: May 20, 2005	:	FROM RECORD
Attorney Docket No. PA3535US	:	

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** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 32605 was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc: CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

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United States Patent and Trademark Office
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QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O BOX 2113
MADISON, WI 53701-2113

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OCT 2 7 2008

OFFICE OF PETITIONS

In re Application of :
XU, et al. :
Application No. 11/134,564 :
Filed: May 20, 2005 :
Attorney Docket No. **961081.00004** :

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1632 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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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Reinelt et al.	:	
Application No. 11/134581	:	DECISION ON
Filing or 371(c) Date: 05/19/2005	:	PETITION
Attorney Docket Number:	:	
F-8679	:	

This is a decision in response to the Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137, filed January 7, 2008. Petitioner requests relief based upon unavoidable delay, or alternatively based upon unintentional delay.

This Petition based upon for unavoidable delay under 37 CFR 1.137(a) is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed May 4, 2007. The Office action set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned on June 5, 2007. A Notice of Abandonment was mailed November 29, 2007.

Applicant files the present petition wherein Applicant avers that a timely reply to the Office communication was filed on May 16, 2007 using the certificate of mail procedures set forth in 37 CFR 1.8. In support of this assertion, Applicant files a copy of the reply; a Declaration of Michelle Ramos, and a copy of a mail log. A review of the reply reveals that it included a Certificate of Mailing dated May 16, 2007, executed by petitioner herein. A review of the Declaration of Michelle Ramos, and the copy of a mail log demonstrate by a preponderence of the evidence that the reply was timely filed.

In view of the above, the petition is granted.

Office records indicate that Petitioner was charged the fee for a petition to revive under the unintentional standard, $1,540.00. Office records will be corrected to reflect a charge of the petition fee based upon unavoidable delay, $510.00. The balance of the petition fee, $1,030.00, has been refunded to Petitioner's deposit account.

The application will be referred to Technology Center Art Unit 3611 for processing of the copy of the response filed with the petition, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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Stolowitz Ford Cowger, LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

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FEB 29 2008

OFFICE OF PETITIONS

In re Application of :
John T. Chapman, et. al. :
Application No. 11/134,589 : DECISION ON PETITION
Filed: May 17, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2705-0366 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 6, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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.

Since all of the above requirements have been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed 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 application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2616, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/134,589	05/17/2005	2616	2750	2705-0366	30	8

CONFIRMATION NO. 1855

CORRECTED FILING RECEIPT

73552
Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Date Mailed: 02/29/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John T. Chapman, Saratoga, CA;
Daniel W. Crocker, San Jose, CA;
Alon S. Bernstein, Sunnyvale, CA;
Michael J. Healy, Berlin, MA;
David B. Fox, Bolton, MA;

Power of Attorney: The patent practitioners associated with Customer Number 73552

Domestic Priority data as claimed by applicant

This application is a CIP of 09/894,958 06/27/2001 PAT 7,209,442
and claims benefit of 60/574,506 05/25/2004
and claims benefit of 60/574,876 05/26/2004
and claims benefit of 60/622,312 10/25/2004
and claims benefit of 60/624,490 11/01/2004
and claims benefit of 60/635,995 12/13/2004
and claims benefit of 60/588,635 07/16/2004
and claims benefit of 60/582,732 06/22/2004
and claims benefit of 60/590,509 07/23/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/134,589**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Downstream remote physical interface for modular cable modem termination system

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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SUITE 121
DAHLGREN, VA 22448-5110

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of
Thomas W. Smith
Application No. 11/134,607
Filed: May 19, 2005
Attorney Docket No. 82728

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 2, 2007.

The request is **APPROVED**.

A review of the file record indicates that Scott R. Boalick, formerly of the firm of Fish & Richardson: (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, Scott R. Boalick has 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). A courtesy copy of this decision is being mailed to Mr. Boalick at the address of Fish & Richardson noted below.

The correspondence address of record remains unchanged.

A non-final rejection was mailed on May 18, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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SUITE 121
DAHLGREN, VA 22448-5110

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of
Blaise L. Corbett et al.
Application No. 11/134,608
Filed: May 19, 2005
Attorney Docket No. 95908

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 **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request to withdraw Scott R. Boalick cannot be approved because power of attorney was given by customer number.

The request to withdraw less than all attorneys appointed by customer number 23501 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

There are no outstanding office actions at this time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE, MA 02138

Mail Date: 04/20/2010

Applicant	: Hung Li	: DECISION ON REQUEST FOR
Patent Number	: 7569545	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,613	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **475** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING
P.O. BOX 7037
ATLANTA, GA 30357-0037

Mail Date: 04/21/2010

Applicant	: Paolo Lazzari	: DECISION ON REQUEST FOR
Patent Number	: 7659407	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,627	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **648** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of :
Navin Vaya, et al. :
Application No. 11/134,632 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. 1296-018 CIP I :
:

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 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 mailed December 3, 2007. A Notice of Abandonment was mailed on June 20, 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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1615 for processing of the RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Cool Patent, P.C.
c/o Intellevate, LLC
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: David M. Putzolu	: DECISION ON REQUEST FOR
Patent Number	: 7586890	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1022** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

JUN 20 2005
PATENT & TRADEMARK OFFICE

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Patent Preparation, Prosecution, and Licensing
349 W. Commercial Street, Suite 2490
EAST ROCHESTER, NY 14445-2408

Howard J. Greenwald, Patent Attorney
John M. Hammond, Patent Agent, P.E.
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1725

June 15, 2005

11/134657

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL
Application number 11/134657
ULTRACAPACITORS COMPRISED OF MINERAL MICROTUBULES
Filing date: May 20, 2005

Applicant hereby petitions to make the above referenced application special in accordance with 37 C.F.R. 1.102 (c), MPEP 708.02 V. and MPEP 708.02 VI.

In accordance with MPEP 708.02 VI., the above referenced invention, ULTRACAPACITORS COMPRISED OF MINERAL MICROTUBULES, materially contributes to the more efficient utilization of energy resources. The invention provides for electrical energy storage devices that can be charged rapidly and can store a significant amount of electrical charge. Such electrical energy storage devices provide energy and power density that far surpasses that of traditional batteries. Applications for such devices include hybrid gas electric vehicles, photovoltaics, wind power, fuel cells, backup power systems, portable appliances and tools, and the like. Ultracapacitors also exhibit greater useful lifetimes than batteries, and thus provide for more efficient utilization of electrical energy. In addition, ultracapacitors can be electrically charged in seconds rather than the hours required to charge most batteries.

In accordance with MPEP 708.02 V., the invention further contributes to the maintenance of the basic life-sustaining natural elements such as air, water, and soil by eliminating the significant environmental disposal problems that are prevalent with batteries. Ultracapacitors do not contain contaminants such as mercury, lithium, cadmium and lead

PETITION GRANTED

Richard Crispino
Special Program Examine
TC1700 JUN 28 2005

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HOWARD J. GREENWALD, P.C.
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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OFFICE OF PETITIONS

In re Application of	:	
Gunderman et al.	:	DECISION ON PETITION
Application No. 11/134,657	:	TO WITHDRAW
Filed: May 20, 2005	:	FROM RECORD
Attorney Docket No. RDG-838	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that a Revocation and New Power of Attorney was submitted by the assignee of the entire interest of the patent application on December 1, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the first below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

MICHAEL L. WEINER
NATURALNANO, INC.
150 LUCIUS GORDON DRIVE, SUITE 215
WEST HENRIETTA, NY 14586

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Greenberg Traurig, LLP (LA)
2450 Colorado Avenue, Suite 400E
Intellectual Property Department
Santa Monica, CA 90404

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OFFICE OF PETITIONS

In re Application of :
Rudolph C. Shepard :
Application No. 11/134,665 : DECISION ON PETITION
Filed: May 20, 2005 : TO WITHDRAW
Attorney Docket No. 74687.010100 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 20, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Franklin D. Ubell on behalf of all attorneys/agents associated with customer number 33717. All attorneys/agents associated with customer number 33717 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rudolph C. Shepard
31791 Via Pato
Coto de Caza, CA 92679

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/134,665	05/20/2005	Rudolph C. Shepard	74687.010100

CONFIRMATION NO. 1957

POWER OF ATTORNEY NOTICE

33717
GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

Date Mailed: 09/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/20/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/18/2010

Applicant	: Satyam Tyagi	: DECISION ON REQUEST FOR
Patent Number	: 7636302	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/134,668	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1200** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PETERS VERNY , L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO, CA 94306

Mail Date: 04/21/2010

Applicant	: Mostafa Ronaghi	: DECISION ON REQUEST FOR
Patent Number	: 7622281	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,683	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. BOX 770
Church Street Station
NEW YORK NY 10008-0770

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OFFICE OF PETITIONS

In re Application :
Chen, et al. :
Application No. 11/134,685 : PATENT TERM ADJUSTMENT
Filed: May 19, 2005 :
Dkt. No.: 04280/1202514-US1 :

This is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705." This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(b). The application for patent term adjustment was timely filed December 24, 2008, along with issue fee payment.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed September 25, 2008. Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the

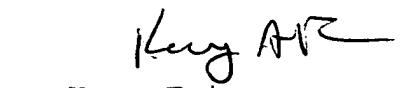
request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.



Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 7,517,903 :
Issued: April 14, 2009 :
Application No. 11/134,685 : PATENT TERM ADJUSTMENT
Filed: May 19, 2005 :
Dkt. No.: 04280/1202514-US1 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed June 15, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,517,903 on April 14, 2009. The patent issued with a patent term adjustment of 552 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees request correction of the patent term adjustment from 552 days to 882 days on the sole basis that the Office took in excess of three years to issue the above-referenced patent. Patentees reference Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008) and assert that the patent is entitled to an adjustment of 882 days (554 days pursuant to 35 USC 154(b)(1)(A) *plus* 330 days pursuant to 35 USC 154(b)(1)(B) *less* 2 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on April 14, 2009, the application was pending three years and 330 days after its filing date. The Office agrees that at the time of issuance, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 554 days is correct (554 days of adjustment pursuant to 37 CFR 1.702(a)(1)). At issue is whether patentees should accrue 330 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 554 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 330 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 554 days of examination delay under 37 CFR 1.702(a)(1).

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:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

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).

---

[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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), May 19, 2005, and ending on the date that the patent issued, April 14, 2009.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), the application was accorded 554 days of examination due to examination delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 330 days prior to the issuance of the patent.

The 330 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 554 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 330 days and the 554 days is neither permitted nor warranted given that 554 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, having considered the 330 days of Office delay under the three-year pendency provision in conjunction with the 554 days of examination delay, reduced two days for applicant delay, the Office properly entered 552 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

No additional fees are due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Medarex
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK, NY 10008-0770

Mail Date: 04/21/2010

Applicant	: Liang Chen	: DECISION ON REQUEST FOR
Patent Number	: 7517903	: RECALCULATION of PATENT
Issue Date	: 04/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **882** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GORDON & REES
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of :
David A. Drake et al :
Application No. 11/134,691 : DECISION ON PETITION
Filed: May 20, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. HDNX 1033356 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed October 24, 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, Sections V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

Applicants' invention may prevent flooding conditions, however, there is no factual evidence that the invention is "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic-life sustaining natural elements." The contribution of applicants' invention, while beneficial to the environment, does not rise to the level intended by the Rule.

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 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 Art Unit 2632 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

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101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of	:	
David A. Drake et al	:	
Application No. 11/134,691	:	DECISION ON PETITION
Filed: May 20, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. HDNX 1033356	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(i), filed December 27, 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, Sections V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The disclosed and claimed device is a warning system that wirelessly sends data to a remote source and alarms an operator when certain thresholds, such as high water levels, are sensed. While this invention may be beneficial to the environment, a review of the disclosure and petition do not clearly articulate how the claimed invention materially enhances the quality of the environment. The Background of the Invention section also discloses current systems to monitor water levels and flow. Thus, it is also not clear how the invention would actually contribute to the enhancing the quality of the environment any more than the existing technology in this field.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents

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Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon 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 Art Unit 2632 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

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Gordon & Rees, LLP
101 West Broadway
Suite 1600
San Diego, CA 92101

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of

David A. Drake et al.
Application No. 11/134,691
Filed: May 20, 2005
Attorney Docket No. HDNX 1033356

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 20, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Laurie A. Axford and all attorneys/agents associated with customer number 27111 of record has been revoked by the applicant of the patent application on March 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

A non-final rejection was mailed on February 6, 2007. Failure to respond timely respond within the extendable time period will result in the abandonment of this application.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Gary M. Nath
The Nath Law Group
112 South West Street
Alexandria, VA 22314

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/134,691	05/20/2005	David A. Drake	HDNX 1033356

CONFIRMATION NO. 1200

OC000000023866491

27111
GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

Date Mailed: 05/15/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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FOLEY & LARDNER, LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

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SEP 0 8 2008

In re Application of :

PARTIN, et al. :
Application No. 11/134,695 : DECISION ON PETITION TO
Filed: May 20, 2005 : WITHDRAW FROM RECORD
Attorney Docket No. 7017-0900 :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 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 Gerald F. Swiss 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 as it 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. In view of the above, the Notice of Acceptance of Power of Attorney mailed May 15, 2008 is hereby VACATED. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 30, 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: LARRY D. PARTAIN
590 MILVERSON ROAD
LOS ALTOS, CA 94022

cc: TIANJUN HOU
HOUST COUNSULTING (VARIAN)
P.O. BOX 2688
SARATOGA, CA 95070-0688

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of :
PARTIN, et al. :
Application No. 11/134,695 :
Filed: May 20, 2005 :
Attorney Docket No. 7017-0900 :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 17, 2008.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to FOLEY & LARDNER, LLP has been revoked by the assignee of the patent application on May 5, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The decision on Petition To Withdraw From Record mailed on September 8, 2008 is hereby vacated.

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: TIANJUN HOU
HOUST COUNSULTING (VARIAN)
P.O. BOX 2688
SARATOGA, CA 95070-0688

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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OFFICE OF PETITIONS

In re Application of :
Bruce J. Roser et al. :
Application No. 11/134,700 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No.: **559662000201** :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 29, 2007 for failure to timely file a reply to the final Office action mailed May 29, 2007, which set a three (3) month shortened statutory period for reply. A three month extension of time under 37 CFR 1.136(a) was obtained, however, the response filed November 13, 2007 did not place the application in condition for allowance. An advisory action was mailed January 15, 2008. Accordingly, this application is abandoned. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The Notice of Appeal filed January 24, 2008 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The application is being forwarded to Technology Center 1615 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of Roser et al. :
Application No. 11/134,701 : Decision on Petition
Filing Date: May 20, 2005 :
Attorney Docket No. 559662000202 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on June 11, 2007. The Office action set a shortened statutory period for reply of three (3) months.

A reply and request for a two-month extension of time were filed November 5, 2007. As noted in the Advisory Action mailed January 24, 2008, the reply failed to place the application in condition for allowance. As a result, the application became abandoned on Wednesday, November 14, 2007.[1]

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,540. Petitioner has submitted a reply to the final Office action in the form of a Notice of Appeal. 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 Notice of Appeal filed January 24, 2008, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

[1] November 11, 2007, was a Sunday, November 12, 2007, was a Federal holiday.

The Office notes petitioner paid $1,050 for a three-month extension of time when filing the petition. However, an extension of time is not necessary, and cannot be accepted, when an applicant files a petition to revive an application. Therefore, the $1,050 has been credited back to petitioner's deposit account.

Petitioner paid $120 for a one-month extension of time on April 3, 2008. However, as of April 3, 2008, no time period was running. Therefore, an extension of time was unnecessary and the $120 has been credited back to petitioner's deposit account.

Technology Center Art Unit 1615 will be informed of the instant decision and the examiner will review the papers filed April 3, 2008, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Squire, Sanders & Dempsey L.L.P.
Oracle International Corporation
8000 Towers Crescent Drive
14th Floor
Vienna, VA 22182

Mail Date: 04/20/2010

Applicant	: David Read	: DECISION ON REQUEST FOR
Patent Number	: 7607126	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,714	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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BEVER, HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008

Mail Date: 04/20/2010

Applicant	: Yulan Wang	: DECISION ON REQUEST FOR
Patent Number	: 7617464	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,721	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **79** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BEVER, HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008

Mail Date: 05/17/2010

Applicant : Yulan Wang
Patent Number : 7617464
Issue Date : 11/10/2009
Application No: 11/134,721
Filed : 05/20/2005

: 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 **111** 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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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 07/08/2010

Applicant	: Madhava Rao Cheethirala	: DECISION ON REQUEST FOR
Patent Number	: 7647434	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/134,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1082** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Tae-Woong Koo et al. :
Application No. 11/134,747 : DECISION ON PETITION
Filed: May 19, 2005 : TO WITHDRAW
Attorney Docket No. 070702003410 : FROM RECORD
:

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 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. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to the address indicated in the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A non-final Office action was mailed on May 2, 2007. Failure to timely reply will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Intel Corporation
2200 Mission College Boulevard
Santa Clara, CA 95052

cc: Raj S. Dave
Darby & Darby, P.C.
1500 K Street, N.W.
Suite 250
Washington, DC 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/134,747	05/19/2005	Tae-Woong Koo	070702003410

CONFIRMATION NO. 2436

OC000000025283005

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/09/2007

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 Dravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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JUN 13 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

In re Application of
KOO, Tae-Woong et al.
Application No. 11/134,749
Filed: May 19, 2005
Attorney Docket No. **070702003411**

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 13, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on April 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY P.C.**
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
11/134,749	05/19/2005	Tae-Woong Koo	070702003411

CONFIRMATION NO. 2454

OC000000024239353

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Date Mailed: 06/06/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
11/134,749	05/19/2005	Tae-Woong Koo	070702003411

CONFIRMATION NO. 2454

OC000000024239310

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Michelle R. Edson

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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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	: Donald P. Brown	: DECISION ON REQUEST FOR
Patent Number	: 7589730	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,761	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1110** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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November 12, 2009

Patent No. : 7,584,158 B2
Appl. No. : 11/134,763
Inventor(s) : Hidekazu Iwaki, et al.
Issued : September 1, 2009
Title : **USER SUPPORT APPARATUS**
Docket No. : **05331/LH**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
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.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 FIFTH AVENUE
16TH FLOOR
NEW YORK, NY 10001-7708

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OFFICE OF PETITIONS

In re Patent No. 7,584,158 :
Issue Date: September 1, 2009 :
Application No. 11/134,763 : ON PETITION
Filed: May 19, 2005 :
Attorney Docket No. 05331/LH :

This is a decision on the petition filed December 11, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Bernard F. Rose
Squire, Sanders & Dempsey, LLP
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

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OFFICE OF PETITIONS

In re Application of

David M. Weiner et al.
Application No. 11/134,769
Filed: May 20, 2005
Attorney Docket No. 65167.00005

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 8, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Bernard F. Rose and all attorneys/agents associated with customer number 44955 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 be directed to the below-listed address until otherwise notified by applicant.

At this time, there are no pending office actions.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Vicki G. Norton
Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/134,769	05/20/2005	David M. Weiner	65167.00005

CONFIRMATION NO. 2069

44955
SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111

OC000000023650517

Date Mailed: 05/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/27/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Kimberly Trabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

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BROWN RAYSMAN MILLSTEIN FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

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APR 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Jonathan Schull :
Application No. 11/134,771 :
Filed: May 19, 2005 :
Attorney Docket No. 4861/28 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed March 13, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 17, 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 August 18, 2005. A Notice of Abandonment was mailed on February 21, 2006.

Petitioner asserts that a response was timely submitted on August 2, 2005. In support, petitioner has submitted a stamped postcard receipt that indicates a response to the Notice was received by the USPTO on August 2, 2005. However, petitioner further states the response was mislabeled as serial number 10/851,771 and not 11/134,771.

Please note MPEP 502:

> "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions."

Additionally, petitioner asserts that the missing Oath or Declaration was, in fact, submitted with the original application papers on May 19, 2005. In support, the petition is accompanied by a copy of applicants' postcard receipt that acknowledges receipt of "Copies of Declarations from priority parent application" on May 19, 2005. A Declaration submitted May 19, 2005 is not found after review of the application file. It is assumed that the Declaration was misplaced by the Office.

Accordingly, the petition is granted. The holding of abandonment and the "Notice to File Missing Parts of Application" mailed June 17, 2005 are hereby withdrawn.

This application is being returned to the Office of Initial Patent Examination for further processing, using the Declaration, submitted March 13, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Mark A. Freeland	: DECISION ON REQUEST FOR
Patent Number	: 7584947	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **116** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 19 2010

OFFICE OF PETITIONS

PATENT OFFICE OF J. JOHN SHIMAZAKI
P.O. BOX 650741
STERLING, VA 20165

In re Patent No. 7,067,937
Issue Date: June 27, 2006
Application No. 11/134,801
Filed: March 20, 2005
Attorney Docket No. 26877-0002

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed November 18, 2009 under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 by way of a certificate of correction since this case issued prior to the rendering of a decision on this petition.

The petition is **dismissed**.

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 May 20, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition lacks item (1) and a proper certificate of correction.

The applicant must have the certificate of correction amend the first sentence of the specification. Moreover, it is not sufficient to just identify all of the prior applications in the chain. To be proper, the appropriate references must have actually been 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.

There was no certificate of correction submitted with the petition on November 18, 2009. However, the Office record show the $100 certificate of correction fee was received on January 8, 2010. This petition can not be treated until a proper certificate of correction is received.

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 Irvin Dingle at (571) 272-3210.

/dab/
David Bucci
Petition Examiner
Office of Petitions

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PATENT OFFICE
OF
J. JOHN SHIMAZAKI, PLLC

FAX COVER SHEET

TO: ATTEN: PTO--OFFICE OF PETITIONS

FAX NO.: 571-273-8300

PHONE NO.:

DATE: April 23, 2010

FROM: J. John Shimazaki

NO. OF PAGES: 14

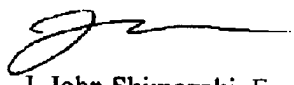
MESSAGE:

Patent No. 7,067,937
Issue Date: June 27, 2006
Application Serial No. 11/134,801
Filing Date: March 20, 2005
Title: METHOD AND APPARATUS FOR USING WIND TURBINES TO GENERATE AND SUPPLY UNINTERRUPTED POWER TO LOCATIONS REMOTE FROM THE POWER GRID

Dear Sirs:

Enclosed are the following: 1) Request to Reconsider Decision on Petition Under 37 CFR 1.78(a)(3) (2 pages); 2) A copy of the PTO's Decision Dismissing Petition Under 37 CFR 1.78(a)(3) (2 pages), 3) A copy of the Certificate of Correction (1 page), and 4) A copy of the original Petition (Request for Certificate of Correction Under 37 CFR 1.323) filed on January 8, 2010 (8 pages).

Very Truly Yours,



J. John Shimazaki, Esq.
Reg. No. 37,236

P.O. Box 650741
Sterling, Virginia 20165
Phone: 703-430-3018
Fax: 208-475-8631
Email: shimazaki@jjspatentoffice.com

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No, 7,067,937

Application Serial No. 11/134,801

Issue Date: June 27, 2006

Filing Date: March 20, 2005

Patentees: Enis and Lieberman

For: METHOD AND APPARATUS FOR USING WIND TURBINES TO GENERATE AND SUPPLY UNINTERRUPTED POWER TO LOCATIONS REMOTE FROM THE POWER GRID

I hereby certify that this correspondence is being faxed to the Commissioner for Patents, fax number 571-273-8300, located at P.O. Box No. 1450, Alexandria, Virginia 22313-1450, on:

April 23, 2010
(date of fax)

(J. John Shimazaki, Reg. No. 37,236)

REQUEST TO RECONSIDER DECISION ON PETITION UNDER 37 CFR 1.78(A)(3)

To the Commissioner for Patents:
MAIL STOP REISSUE
Alexandria, VA 22313

Dear Sirs:

Patentees hereby acknowledge receiving the Decision Dismissing Petition Under 37 CFR 1.78(a)(3) And Request for Certificate of Correction dated February 19, 2010 entered in connection with the above identified patent. In the Decision, the Office of Petitions indicated that no certificate of correction was submitted with the Petition Under CFR 1.78(a)(3) filed on January 8, 2010, and that therefore, for the Petition to be granted, Patentees would have to provide a copy of the Certificate of Correction to correct the priority claim specified in the first sentence of the above identified patent.

According to the Office of Petitions, Patentees have previously provided both the surcharge under CFR 1.17(t) and the 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, and therefore, the only missing requirement is that a Certificate of

Correction specifying the relationship between the instant patent and the previous related applications was not provided with the Petition.

By providing a copy of the attached Certificate of Correction, Applicants respectfully submit that all of the requirements for the granting of the original Petition should now have been submitted, and accordingly, Patentees respectfully request that the Office of Petitions grant the Petition Under 37 CFR 1.78(a)(3) as requested.

Respectfully submitted,

J. John Shimazaki, Esq.
Reg. No. 37,236
Patent Office of J. John Shimazaki, PLLC
P.O. Box 650741
Sterling, VA 20165
Ph: 703-430-3018
Fax: 208-475-8631

Date: Apr. 23, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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FEB 19 2010

OFFICE OF PETITIONS

PATENT OFFICE OF J. JOHN SHIMAZAKI
P.O. BOX 650741
STERLING, VA 20165

In re Patent No. 7,067,937
Issue Date: June 27, 2006
Application No. 11/134,801
Filed: March 20, 2005
Attorney Docket No. 26877-0002

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed November 18, 2009 under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 by way of a certificate of correction since this case issued prior to the rendering of a decision on this petition.

The petition is **dismissed**.

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 May 20, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition lacks item (1) and a proper certificate of correction.

The applicant must have the certificate of correction amend the first sentence of the specification. Moreover, it is not sufficient to just identify all of the prior applications in the chain. To be proper, the appropriate references must have actually been 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.

There was no certificate of correction submitted with the petition on November 18, 2009. However, the Office record show the $100 certificate of correction fee was received on January 8, 2010. This petition can not be treated until a proper certificate of correction is received.

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 Irvin Dingle at (571) 272-3210.

/dab/
David Bucci
Petition Examiner
Office of Petitions

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. : 7,067,937

APPLICATION NO.: 11/134,801

ISSUE DATE : June 27, 2006

INVENTOR(S) : Enis and Lieberman

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:

The first sentence of the specification beneath the title shall read as follows:

"This application is a Continuation of U.S. Patent Application, Serial No. 10/263,848, now U.S. Patent No. 6,927,503, filed on October 4, 2002, which claims priority from U.S. Provisional Application Serial Nos. 60/327,012, filed on October 5, 2001, and 60/408,876, filed on September 9, 2002, all of which are incorporated herein by reference in their entirety."

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No. 7,067,937

Issue Date: June 27, 2006

Patentees: Enis and Lieberman

For: METHOD AND APPARATUS FOR USING WIND TURBINES TO GENERATE AND SUPPLY UNINTERRUPTED POWER TO LOCATIONS REMOTE FROM THE POWER GRID

I hereby certify that this correspondence is being faxed to the Commissioner for Patents, fax number 571-273-8300, located at P.O. Box No. 1450, Alexandria, Virginia 22313-1450, on:

Jan. 8, 2010
(date of fax)

(J. John Shimazaki, Reg. No. 37,236)

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §1.323 TO CORRECT AN INCORRECT REFERENCE TO A PRIOR CO-PENDING APPLICATION UNDER 37 C.F.R. §1.78(a)(2)

To The Honorable Commissioner for Patents
Alexandria, Virginia 22313

Dear Sir:

Please correct the above identified patent by making the correction set forth in the attached Petition Under 37 C.F.R. §1.78(a)(3) and Amendment (that the original application is a continuation of U.S. application serial no. 10/263,848, filed Oct 4, 2002). The attached Petition (and fee) and Amendment were filed on November 18, 2009 in connection with Reissue Application Serial No. 12/590,995, which is a reissue of the present patent, but given that the mistake is believed to be correctable by Certificate of Correction, Applicants have since chosen to submit this Request rather than have the patent reissued (in which case, upon issuance of the Certificate of Correction, Applicants will abandon the Reissue Application).

The mistake to be corrected simply relates to an unintentional omission to include the relationship between the original application (the patent to be corrected) and the prior co-pending application (U.S. application serial no. 10/263,848) in the first

sentence of the specification as required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2). This mistake occurred in good faith.

M.P.E.P. §1481.03 states that a Certificate of Correction can be used in the following circumstances: (A) the failure to make reference to a prior co-pending application pursuant to 37 C.F.R. §1.78(a)(2); or (B) an incorrect reference to a prior co-pending application pursuant to 37 C.F.R. §1.78(a)(2). In this case, Applicants attempted to include a reference to the prior co-pending application pursuant to 37 C.F.R. §1.78(a)(2), but failed to include the relationship between the original application and the prior co-pending application, and therefore, Applicants believe the mistake is correctable by Certificate of Correction as mentioned above.

To obtain a Certificate of Correction under these circumstances, M.P.E.P. §1481.03 states that "where priority is based upon 35 U.S.C. 120 to a national application," the following conditions must be satisfied:

> "(A) all requirements set forth in 37 CFR **1.78(a)(1)** must have been met in the application which became the patent to be corrected; (B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § **201.11**); and (C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR **1.17(t)**, as required by 37 CFR **1.78(a)(3)**."

In this case, Applicants respectfully submit that all three conditions (A, B and C) have been satisfied, and therefore, a Certificate of Correction is appropriate. For example, condition A is met because 1) the prior co-pending application names the same inventors named in the patent to be corrected, and 2) the prior co-pending application discloses the invention claimed in at least one claim issued in the patent to be corrected. Condition B is met because it is clear from the record that the applications are co-pending and therefore the claim for priority is appropriate. Condition C is met because the Petition Under 37 C.F.R. §1.78(a)(2) to Correct an Unintentionally Delayed Claim for Priority Under 35 U.S.C. §1.20 – see attached Exhibit A – and Amendment – see attached Exhibit B – were filed in connection with the reissue of the present patent (i.e., namely, Reissue Application Serial No. 12/590,995).

Note that although the attached Petition (and fee under 37 C.F.R. §1.17(t)) were originally submitted to the Patent Office in connection with the Reissue Application, no

additional petition or fee is believed to be required (with this Request) since the Petition was filed in connection with the same patent.

The mistake being corrected is believed to be of a minor character and correcting the mistake should not require any further searching or examination by the Patent Office. In this respect, Applicants respectfully submit that the mistake simply relates to the omission of the relationship between the patent to be corrected and the prior co-pending application, and therefore, is relatively minor in character. And, because the correction involves a priority claim that was not previously recognized by the Patent Office (during the examination of the original application), the end result is that, upon making this correction, no further searching or examination of the patent will be required. Indeed, because the correction will cause the patent to have an earlier effective filing date (than it was entitled to before), Applicants submit that the field of prior art that will have to be searched will be reduced, and therefore, no need for any additional searching or examination should be required.

For all of the above reasons, Applicants respectfully submit that the requirements of M.P.E.P. §1481.03 have been met, and therefore, respectfully request that a Certificate of Correction be issued in this case.

The $100.00 fee under 37 C.F.R. §1.20(a) is enclosed.✓

Respectfully Submitted,

Dated: Jan. 8, 2010

J. John Shimazaki, Esq.
Registration No. 37,236

Patent Office of J. John Shimazaki, PLLC
P.O. Box 650741
Sterling, VA 20165
Ph: 703-430-3018
Fax: 208-475-8631

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COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue Application of

U.S. Patent No. 7,067,937

Issue Date of Original Patent: June 27, 2006

Patentees: Enis and Lieberman

For: METHOD AND APPARATUS FOR USING WIND TURBINES TO GENERATE AND SUPPLY UNINTERRUPTED POWER TO LOCATIONS REMOTE FROM THE POWER GRID

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on:

Nov. 17, 2009
(date of deposit)

THIS WAS DATE OF MAILING

(J. John Shimazaki, Reg. No. 37,236)

PETITION UNDER 37 C.F.R. § 1.78(a)(3) TO CORRECT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. § 120

To The Honorable Commissioner for Patents
Alexandria, Virginia 22313

Dear Sirs:

Applicants respectfully request that the attached amendment to the specification – to include the relationship between the original patent to be reissued and the prior co-pending application – be entered in the first sentence/paragraph of the specification pursuant to 37 C.F.R. § 1.78(a)(3). Applicants further request that the delayed claim for priority under 35 U.S.C. § 120 be corrected and accepted by the PTO.

Applicants hereby assert that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2) and the date the claim was filed was unintentional.

The surcharge of $1,410.00 under 37 CFR 1.17(t) is hereby included.

EXH. A Copy of Petition filed on Nov. 18, 2009

(Copy)

The Amendment which includes the corrected claim of priority is attached herewith.

Respectfully Submitted,

Dated: Nov. 17, 2009

J. John Shimazaki, Esq.
Registration No. 37,236

Patent Office of J. John Shimazaki, PLLC
P.O. Box 650741
Sterling, VA 20165
Ph: 703-430-3018
Fax: 208-475-8631

Exh. A.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue Application of

U.S. Patent No. 7,067,937

Issue Date of Original Patent: June 27, 2006

Patentees: Enis et al.

For: METHOD AND APPARATUS FOR USING WIND TURBINES TO GENERATE AND SUPPLY UNINTERRUPTED POWER TO LOCATIONS REMOTE FROM THE POWER GRID

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on:

Nov. 17, 2009
(date of deposit)

THIS WAS DATE OF MAILING

(J. John Shimazaki, Reg. No. 37,236)

AMENDMENT IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.78(a)(3) TO CORRECT AN UNINTENTIALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. § 120

To The Honorable Commissioner for Patents
Alexandria, Virginia 22313

Dear Sir:

In support of the Petition Under 37 C.F.R. § 1.78(a)(3) to Correct an Unintentionally Delayed Claim for Priority Under 35 U.S.C. § 120 filed herewith, Applicants respectfully submit the following amendments and remarks:

Exh. B Copy of Amendment filed on Nov. 18, 2009

Ceps

IN THE SPECIFICATION

Please amend the priority data in the first sentence/paragraph of the specification beneath the title as follows:

"This application is a continuation of [claims priority from] U.S. patent application, Ser. No. 10/263,848, now U.S. Pat. No. 6,927,503 filed on Oct. 4, 2002, which claims priority from U.S. Provisional Application Ser. Nos. 60/327,012, filed on Oct. 5, 2001, and 60/408,876, filed on Sep. 9, 2002, all of which are incorporated herein by reference in their entirety."

The following is the full text of the paragraph identified above.

"This application is a continuation of U.S. patent application, Ser. No. 10/263,848, now U.S. Pat. No. 6,927,503 filed on Oct. 4, 2002, which claims priority from U.S. Provisional Application Ser. Nos. 60/327,012, filed on Oct. 5, 2001, and 60/408,876, filed on Sep. 9, 2002, all of which are incorporated herein by reference in their entirety."

Please ensure that the correction made to the Letters Patent as indicated on the Certificate of Correction (which issued in the original patent on September 12, 2006) also be made in the reissue application. According to the Certificate of Correction, on item (76), the first inventor's name should read – Ben M. Enis –.

Copy

REMARKS

In support of the Petition Under 37 C.F.R. § 1.78(a)(3) to Correct an Unintentionally Delayed Claim for Priority Under 35 U.S.C. § 120 filed herewith, Applicants hereby submit the above amendment and request the Examiner to enter and accept the amendment – to include the relationship between the original patent and the prior co-pending application – in the first sentence/paragraph of the specification pursuant to 37 C.F.R. § 1.78(a)(3). The relationship between the two applications was originally included in the transmittal letter filed with the original application, as indicated by its inclusion on the cover sheet of the original patent, i.e., under the heading "Related U.S. Application Data," which reads "Continuation of application No. 10/263,848, filed on Oct. 4, 2002, now Pat. No. 6,927,503."

Due to no fault of Applicants, the first inventor's name was incorrectly spelled when the original patent issued – the first inventor's name is actually Ben M. Enis, not Ben M. Enish—and therefore, Applicants respectfully request that the correct spelling of the first inventor's name be used/entered when the reissue application is published.

These changes are also hand-written on the copy of the original patent specification enclosed herewith.

For the above reasons, Applicants respectfully request that this Petition be granted and that the Reissue Application be allowed.

Respectfully Submitted,

Dated: Nov. 17, 2004

J. John Shimazaki, Esq.
Registration No. 37,236

Patent Office of J. John Shimazaki, PLLC
P.O. Box 650741
Sterling, VA 20165
Ph: 703-430-3018
Fax: 208-475-8631

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
W. Daniel Hillis :
Application No. 11/134,802 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No. APPL0061

This is a decision on the petition, filed December 15, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 16, 2009 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Pradip K. Mascharak	: DECISION ON REQUEST FOR
Patent Number	: 7582623	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,807	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1076** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 05/13/2010

Applicant	: Shilpa Pradeep Bansod	: DECISION ON REQUEST FOR
Patent Number	: 7617314	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/134,808	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1025** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

HARRIS ZIMMERMAN
LAW OFFICES OF HARRIS ZIMMERMAN
1330 BROADWAY, SUITE 710
OAKLAND, CA 94612

COPY MAILED

MAR 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Shoptaugh, Philip L.	:	
Application No. 11/134,809	:	ON PETITION
Filed: May 20, 2005	:	
Attorney Docket No. 4419	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 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 copy of the applicant's birth certificate. 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 3714 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

CofC

WORKMAN | NYDEGGER
INTELLECTUAL PROPERTY ATTORNEYS

1000 EAGLE GATE TOWER, 60 EAST SOUTH TEMPLE | SALT LAKE CITY, UTAH 84111
TEL: (801) 533-9800 | FAX: (801) 328-1707 | WWW.WNLAW.COM

PATENT
Docket No. 15499.625

OIPE IAP10
JUL 27 2009
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

	Jin et al.	
Serial No.:	11/134,816	Art Unit 3637
Filed:	May 19, 2005	
Confirmation No.:	2514	
For:	*FOLD-IN-HALF TABLE*	
Examiner:	Jose V. Chen	
Patent No.:	7,461,601 B2	
Issue Date:	Dec. 9, 2008	

REQUEST FOR A CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.323

Attention: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
JUL 29 2009
of Correction

Dear Commissioner:

In accordance with the provisions of 37 C.F.R. § 1.323, which implements 35 U.S.C. § 255, the Director is respectfully requested to issue a Certificate of Correction to correct mistakes in the above-identified patent. The enclosed Patent Office Form PTO/SB/44 reflects the desired corrections.

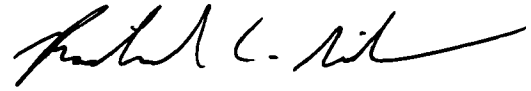
Payment in the amount of $100, as set forth in 37 C.F.R. § 1.20(a) is submitted herewith to cover the costs for issuance of the requested Certificate of Correction. The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider

07/28/2009 HBLANCO 00000003 7461601
01 FC:1811 100.00 OP

this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

Dated this 22 day of July, 2009.

Respectfully submitted,



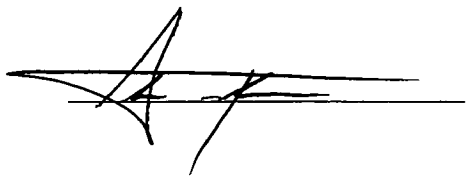
Richard C. Gilmore
Attorney for Applicant
Registration No.: 37,335
Customer No. 022913

WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
Phone: 801-533-9800
Fax: 801-328-1707

CERTIFICATE OF DEPOSIT UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Attention: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23rd day of July, 09.

Respectfully submitted,



Transmitted: REQUEST FOR A CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.323
PTO Form PTO/SB/44 and check No. 00016242 in the amount of $100

WORKMAN | NYDEGGER
INTELLECTUAL PROPERTY ATTORNEYS

1000 EAGLE GATE TOWER, 60 EAST SOUTH TEMPLE | SALT LAKE CITY, UTAH 84111
TEL: (801) 533-9800 | FAX: (801) 328-1707 | WWW.WNLAW.COM

OIPE IAP10
JUL 27 2009
PATENT & TRADEMARK OFFICE

PATENT
Docket No. 15499.625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

	Jin et al.
Serial No.:	11/134,816
Filed:	May 19, 2005
Confirmation No.:	2514
For:	*FOLD-IN-HALF TABLE*
Examiner:	Jose V. Chen
Patent No.:	7,461,601 B2
Issue Date:	Dec. 9, 2008

Art Unit
3637

REQUEST FOR A CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.323

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

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this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

Dated this 22 day of July, 2009.

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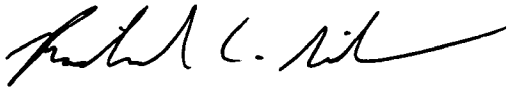

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Attorney for Applicant
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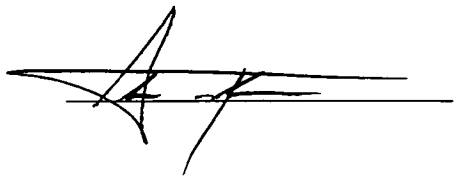

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PTO Form PTO/SB/44 and check No. 00016242 in the amount of $100

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. : 7,461,601 B2

APPLICATION NO.: 11/134,816

ISSUE DATE : Dec. 9, 2008

INVENTOR(S) : Jin et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 9, please replace the current drawing of FIG. 9 with the following figure in which "leg assembly 158b" and "second portion 164b" have been appropriately labeled.

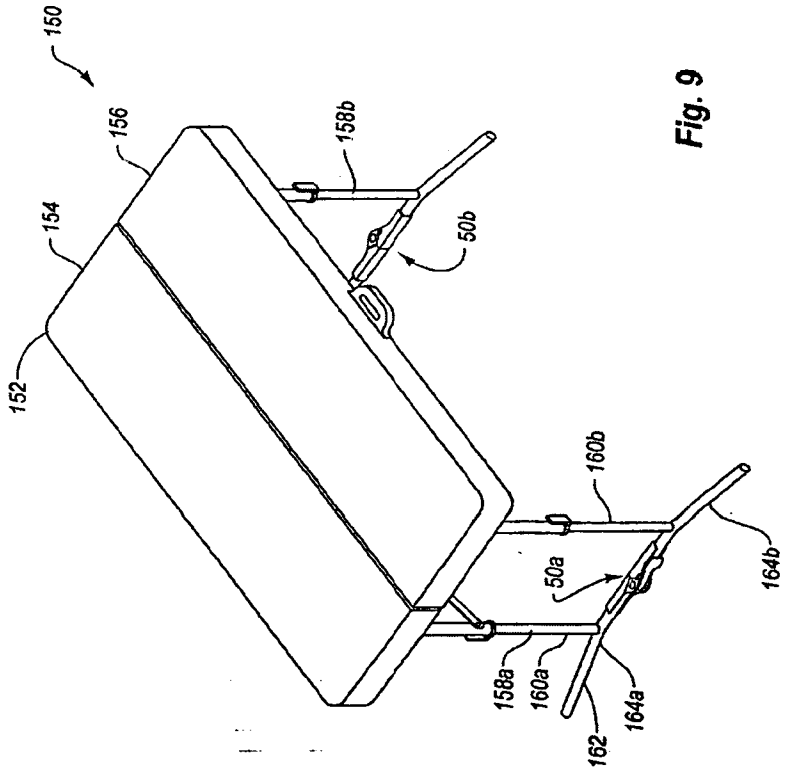

Fig. 9

MAILING ADDRESS OF SENDER (Please do not use customer number)

RICHARD C. GILMORE, WORKMAN NYDEGGER
100 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

This collection of information is required by 37 CFT 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.

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Line 65, change "10" to --150--

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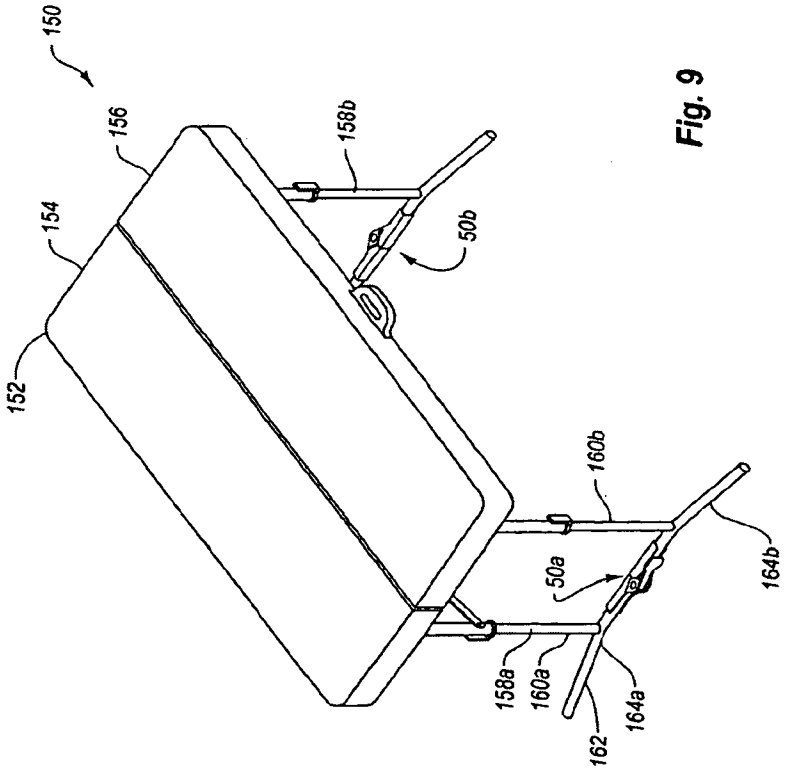

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/17/10

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 11134821 Patent No.: 7473551

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 approved

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Mark Shibuya/ SPE 1641

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JAN 28 2010

OFFICE OF PETITIONS

MEDAREX
C/O DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK NY 10008-0770

In re Application of :
BOYD ET AL. : APPLICATION FOR PATENT
Application No. 11/134,826 : TERM ADJUSTMENT
Filed: May 19, 2005 :
Docket No. 04280/100M629-US2 :

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed August 12, 2009, which is properly treated under 37 CFR § 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred forty-four (544) days, not four hundred twenty-five (425) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction partly on the basis that the Office will take in excess of three years to issue this patent.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PALM and PAIR screens to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **four hundred twenty-one (421) days.** A copy of the updated PALM screen, showing the correct determination, is enclosed.

Initially, applicants disclose that they should have been assessed a period of delay of 4 days, pursuant to 37 CFR 1.704(b), for the filing of a Response to the Notice to File Missing Parts on September 20, 2005.

A review of the application history confirms that the period of adjustment set forth in § 1.703 should have been reduced by 4 days pursuant to 37 CFR 1.704(b).

On June 16, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application. On September 20, 2005, applicants filed a Response to Notice to File Missing Parts. Thus, applicants failed to engage in reasonable efforts to conclude processing or examination of this application. Pursuant to 37 CFR 1.704(b), the period of adjustment should have been reduced by 4 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notice to File Missing Parts of Nonprovisional Application, September 17, 2005, and ending on the date the reply was filed, September 20, 2005. Accordingly, a period of reduction of 4 days will be entered.

As to applicants' request for reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants

are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

In view of the additional periods of reduction pursuant to 37 CFR 1.704(b), the patent term adjustment determination at the time of the mailing of the notice of allowance should have been 421 days (456 days of Office delay - 35 days of applicant delay).

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.

---

[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.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of updated PALM screen

Day : Wednesday

PALM INTRANET

Date: 1/27/2010
Time: 06:34:17

PTA Calculations for Application: 11/134826			
Application Filing Date:	05/19/2005	PTO Delay (PTO):	456
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	421
PTO Delay Adjustment:	-4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	01/27/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
63	05/19/2009	MAIL NOTICE OF ALLOWANCE	92		52
62	05/16/2009	ISSUE REVISION COMPLETED			
61	05/16/2009	DOCUMENT VERIFICATION			
60	05/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	05/16/2009	CASE DOCKETED TO EXAMINER IN GAU			
58	05/15/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	05/11/2009	NOTICE OF ALLOWABILITY			
56	10/30/2008	MISCELLANEOUS INCOMING LETTER			
55	10/31/2008	DATE FORWARDED TO EXAMINER			
54	10/16/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
53	10/31/2008	DATE FORWARDED TO EXAMINER			
52	10/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		28	43
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50	10/16/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	10/16/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	10/10/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
47	10/07/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
46	07/23/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
45	07/16/2008	EXAMINER INTERVIEW SUMMARY RECORD			

		(PTOL - 413)			
43	06/18/2008	MAIL FINAL REJECTION (PTOL - 326)	27		40
42	06/17/2008	FINAL REJECTION			
41	02/21/2008	DATE FORWARDED TO EXAMINER			
40	01/22/2008	RESPONSE AFTER NON-FINAL ACTION		3	39
39	10/19/2007	MAIL NON-FINAL REJECTION			
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28	06/21/2007	MAIL RESTRICTION REQUIREMENT	337		-1
27	06/20/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
26.7	12/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	12/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25.7	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	07/10/2006	CORRESPONDENCE ADDRESS CHANGE			
23.7	02/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	02/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/29/2005	REFERENCE CAPTURE ON IDS			
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17	10/07/2005	APPLICATION RETURN FROM OIPE			
16	10/07/2005	APPLICATION IS NOW COMPLETE			
15	09/20/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
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7	09/29/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	06/13/2005	CLEARED BY L&R (LARS)			
3	06/02/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	05/29/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/19/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CHATTANOOGA TN 37402-2289

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OFFICE OF PETITIONS

In re Application of :
Hagemeyer, et al. :
Application No. 11/134,831 : ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. 16599-0001 :
For: EXTENDED SHELF LIFE AND BULK TRANSPORT OF PERISHABLE ORGANIC LIQUIDS WITH LOW PRESSURE CARBON DIOXIDE

This is a decision on the petition under 37 CFR 1.10(c), filed March 31, 2006, requesting that the above-identified application be accorded a filing date of May 20, 2005, rather than the presently accorded filing date of May 23, 2005.

Petitioners contend that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on May 20, 2005. In support of this contention, petitioners have supplied with the present petition a copy of an USPS Track and Confirm e-mail that shows a package associated with Express Mail label no. ED028791777US was en route to the Office on May 20, 2005. A review of the application file reveals that the Utility Patent Application Transmittal references Express Mail Receipt Number: ED028791777US.

In view of the above, the petition is **granted**.

No fee has been or will be charged in connection with this matter.

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **May 20, 2005.** Thereafter, this application file will be forwarded to Technology Center A.U. 1761 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/134,831	05/20/2005	Richard Hagemeyer	16599-0001	8046

3490 7590 08/12/2009

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EXAMINER	
WEIER, ANTHONY J	
ART UNIT	**PAPER NUMBER**
1794	

MAIL DATE	DELIVERY MODE
08/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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wk

Mailed: AUG 12 2009

In re application of	:	
Hotchkiss et al.	:	DECISION ON
Serial No. 11/134,831	:	PETITION
Filed: May 20, 2005	:	
For: Extended Shelf Life and Bulk Transport of Perishable Organic Liquids with Low Pressure Carbon Dioxide	:	

This is a response to a Request To Admit Amendments which is being treated as a PETITION UNDER RULE 37 C.F.R. 1.181 (no fee) filed July 15, 2009.

Applicants request that the amendments filed May 15, 2009 after final rejection be entered. The Examiner by an Advisory Action dated June 11, 2009 refused entry because the amendments would raise new issues that would require further consideration. A Final Rejection was mailed on March 10, 2009.

Applicants assert that the proposed amendments would not introduce any new issues in the application. Applicants further state that the amendments merely highlight a limitation found in claim 34 and defined in the specification. In response to the Final Office action of March 10, 2009 a proposed amendment was submitted on May 12, 2009. The amendment was in response to the Examiner's office action which stated that "the instant claims recite nothing regarding the exclusion of protein aggregation and precipitation". Applicants proposed amendment was to specify that there was no substantial protein aggregation. The amendment was to independent claims 13 and 27. Applicants' position is that the proposed amendments are merely specific limitations already encompassed in present claim 34 and do not present any new issues to search or consider.

It is noted that there are three independent set of claims in the application (claims 13, 27 and 34). Claims 14-26 depend from claim 13 and claims 28-33 depend from claim 27.

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection.

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions. The amendment that was filed May 15, 2009 does neither.

The dependent claims that depend from claim 13 and claim 27 have different limitations from the dependent claims that depend from claim 34. The proposed additional limitation to both independent claims 13 and 27 in view of the dependent claims raises an issue that would require further search and consideration by the Examiner.

DECISION

The Petition is **DENIED**.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

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755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 07/07/2010

Applicant	: Juha Nurmi	: DECISION ON REQUEST FOR
Patent Number	: 7644309	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/134,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **621** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
Miguelanez et al.	:	
Application No. 11/134,843	:	DECISION REFUSING STATUS
Filed: May 20, 2005	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. TAI.1100	:	
Title: Methods and Apparatus For Local Outlier Detection	:	

This is in response to the petition filed December 19, 2005 (certificate of mailing December 15, 2005), under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on December 19, 2005, without an executed oath or declaration. Accordingly, on June 15, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of August 15, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of

time was also submitted. The current petition fee is $200.00. Pursuant to petitioner's request deposit account 50-2993 will be charged the $200.00 petition fee.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirements (1) and (2).

As to item (1), rule 47 applicant has failed to show that inventor Tabor was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The declaration indicates only the declaration and the assignment were sent to inventor Tabor. There is no indication the application papers (specification, including claims, drawings, and oath or declaration) were mailed to inventor Tabor.

As to item (2), the signature block of inventor Miguelanez contains non-initialed alterations to the declaration. A newly executed declaration without alterations must be submitted pursuant to 37 CFR 1.67(a)(2).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Emilio Miguelanez, Jacky Gorin and Eric Paul Tabor Application No.11/134,843 Filed: May 20, 2005 Attorney Docket No. TAI.1100 Title of Invention: Methods and Apparatus for Local Outlier Detection	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed August 1, 2006.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Tabor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Eric Paul Tabor
425 West Merrill Avenue
Gilbert, Arizona 85233

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OFFICE OF PETITIONS

In re Application of
Emilio Miguelanez, Jacky Gorin and Eric Paul Tabor
Application No.11/134,843
Filed: May 20, 2005
Attorney Docket No. TAI.1100
Title of Invention: Methods and Apparatus for Local Outlier Detection

: LETTER

Dear Mr. Tabor :

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

NOBLITT & GILMORE, LLC.
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ATTN: DANIEL J. NOBLITT

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OFFICE OF PETITIONS

In re Application of :
Lallatin and O'Neill :
Application No.: 11/134,854 : DECISION ACCORDING
Filed: May 20, 2005 : RULE 47(a) STATUS
Attorney Docket No: CELTIC.003A :
For: **ANTI-CANCER ACTIVITY OF AN ANTI-THYMIDINE KINASE MONOBLONAL ANTIBODY**

This is in response to the petition under 37 CFR 1.47(a), filed October 27, 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 May 20, 2005, without a properly executed declaration. On June 28, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Non-Provisional Application requiring a proper declaration and a surcharge for the late filing of the declaration, payment of claim fees, and replacement drawings. The instant petition was filed on October 27, 2005, with a request for an extension of time within the second month.

Petitioner has shown that inventor Lallatin 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.

The "Memorandum of Law under 37 CFR 1.47(b) in Support of Ownership of Patent Application", filed with the instant petition is noted, but was not considered. The instant petition was considered under 37 CFR 1.47(a) because there are two inventors, one of which signed the declaration. Consideration under 37 CFR 1.47(b) is only appropriate when there is a sole inventor that is refusing to join the application or there is more than one inventor and all of the joint inventors are refusing, or unavailable, to join the application. The memorandum will be maintained in the file record.

The Revocation of Power of Attorney, filed August 15, 2005, is noted, but cannot be entered. In order to revoke the power of attorney, the document directing the same must be either signed by all named

inventors or by an assignee that has established its right to take action in the prosecution pursuant to 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to the address cited in the petition, but all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

cc:

Ellen P. Winner
Greenlee, Winner and Sullivan
4875 Pearl East Circle, Suite 200
Boulder, CO 80301

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In re Application of :
Liang Dong, et al. :
Application No.: 11/134,856 : ON PETITION
Filed: May 20, 2005 :
Attorney Docket No.: IMRAA.035A :

This is a decision on the petition, filed February 5, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 5, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2883 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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Munck Carter/NSC
P.O. Drawer 800889
Dallas, TX 75380

Mail Date: 04/20/2010

Applicant	: Mark Hartman	: DECISION ON REQUEST FOR
Patent Number	: 7581120	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/134,997	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1129** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
Patterson et al.	:	DECISION ON PETITION
Application No. 11/134,998	:	TO WITHDRAW
Filed: May 23, 2005	:	FROM RECORD
Attorney Docket No. EV3N.012A	:	

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 29, 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 Foley & Lardner LLP, were revoked by the assignee of the patent application on July 1, 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: KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
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OFFICE OF PETITIONS

In re Application of :
Coscarella : DECISION ON PETITION
Application No. 11/135,006 :
Filed: May 23, 2005 :
Atty. Dkt. No.: THAS125366 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 17, 2009.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The application became abandoned January 18, 2009 for failure to timely submit the publication fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed October 17, 2008. The Notice set a three month statutory period of time for reply. The Notice required the submission of the issue fee and publication fee. The issue fee was received January 21, 2009. Notice of Abandonment was mailed February 10, 2009.

Petitioners assert that a complete reply to the Notice was timely submitted January 21, 2009. Petitioners assert that the issue fee was submitted January 21, 2009. Petitioners assert that the January 21, 2009 reply included authorization was given to charge any outstanding fee, including the publication fee, to Deposit Account No. 03-1740.

A review of the record reveals that the Issue Fee Transmittal (PTOL-85), received January 21, 2009, authorized the Office to charge the issue fee and any other deficiency payments to Deposit Account No. 03-1740. The Issue Fee was charged to the requested deposit account. However, the deposit account lacked sufficient funds to also pay for the publication fee of $300.00; at the time of submission and after withdrawing the issue fee, the deposit account yielded $244.70. *See*, enclosure.

In view thereof, the holding of abandonment cannot be withdrawn.

Any renewed petition must establish that a proper reply to the Notice was timely submitted.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides 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". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the 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 facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

ENC.

UNITED STATES 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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

In re Application of
Coscarella
Application No. 11/135,006
Filed: May 23, 2005
Atty. Dkt. No.: THAS125366

: DECISION ON PETITION

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed September 4, 2009.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The application became abandoned January 18, 2009 for failure to timely submit the publication fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed October 17, 2008. The Notice set a three month statutory period of time for reply. The Notice required the submission of the issue fee and publication fee. The issue fee was received January 21, 2009. Notice of Abandonment was mailed February 10, 2009. A petition to withdraw the holding of abandonment was filed February 17, 2009 and dismissed September 4, 2009.

Petitioners state:

> "Applicant respectfully submits that on January 21, 2009, sufficient funds were indeed available in Deposit Account No. 03-1740 for payment of both the issue fee and the publication fee in accordance with the authorization given to the USPTO. While the account temporarily had a balance of $244.70, sufficient replenishment of the account was received by the Office on the same day, January 21, 2009, and was readily available to the Office as evidenced by the additional charge made to the account after the replenishment was posted.
>
> Given that applicant timely submitted the Part B - Fee(s) Transmittal (PTOL-85) on January 14, 2009, via U.S. Mail to the U.S. Patent and Trademark Office, Mail Stop Issue Fee, with a proper certificate of mailing under 37 C.F.R. § 1.8, together with a certified copy of the priority document CA2470505 and a return receipt postcard (see evidence

> submitted with applicant's initial petition dated February 17, 2009), and given that funds were indeed available on January 21, 2009, for payment of both the issue fee and publication fee (see 37 C.F.R. § 1.25 and M.P.E.P. § 509.01), applicant submits that a complete and proper reply to the Notice of Allowance was timely made in this application and therefore the holding of abandonment was improper."

A review of the record reveals that the Issue Fee Transmittal (PTOL-85), received January 21, 2009, authorized the Office to charge the issue fee and any other deficiency payments to Deposit Account No. 03-1740. The Issue Fee was charged to the requested deposit account. The deposit account lacked sufficient funds to also pay for the publication fee of $300.00; at the time of submission and after withdrawing the issue fee, the deposit account yielded $244.70.

In accordance with 37 CFR 1.22(a), "[p]atent fees and charges payable to the United States Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable with the exception that under § 1.53 applications for patent may be assigned a filing date without payment of the basic filing fee."

At the time of the requesting action on January 21, 2009 at approximately 10:53AM, the deposit account in question contained a balance $244.70. The fact that the deposit account was later replenished on the same day, does not negate the fact that at the time of the requesting action, payment of the publication fee, the fee was not available by way of deposit account.

In accordance with 37 CFR 1.25(a), ["a]n amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

The deposit account holder of the deposit account at issue failed to comply with 37 CFR 1.25(a) by failing to always have on deposit an amount sufficient to cover all requested fees, specifically, the publication fee.

In view thereof, the holding of abandonment cannot be withdrawn.

Any renewed petition must establish that a proper reply to the Notice was timely submitted.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides 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". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the 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 facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

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
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OFFICE OF PETITIONS

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

In re Application of	:
Coscarella	: DECISION ON PETITION
Application No. 11/135,006	:
Filed: May 23, 2005	:
Atty. Dkt. No.: THAS125366	:

This decision is in response to the petition renewed under 37 CFR 1.137(b), filed March 29, 2010.

The petition under 37 CFR 1.137(b) is hereby GRANTED.

The application became abandoned January 18, 2009 for failure to timely submit the publication fee in response to the Notice of Allowance and Issue Fee Due (Notice) mailed October 17, 2008. The Notice set a three month statutory period of time for reply. The Notice required the submission of the issue fee and publication fee. The issue fee was received January 21, 2009. Notice of Abandonment was mailed February 10, 2009. A petition to withdraw the holding of abandonment was filed February 17, 2009 and dismissed August 17, 2009. A petition under 37 CFR 1.181 was filed September 4, 2009 and dismissed March 1, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

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
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re application of :
Scott Renolds :
Application No. 11/135,009 :
Filed: May 23, 2005 :

DECISION ON PETITION UNDER 37 CFR § 1.84(a)(2) and 37 CFR § 1.84(b)

For: **METHOD OF MAKING A STONE WALL**
DOCKET NO: **1763.001US1** :

This is a decision on the petition, filed August 11, 2008, under 37 CFR §1.84(a)(2) and §1.84(b). Petitioner request that the color drawings submitted as FIGS. 2-5, 7-11, and 13-17 and the photographs submitted as FIGS. 2, 3, 5, and 7-17 in the above-identified patent application be accepted as formal drawings.

The petition is GRANTED.

A review of the file record reveals that color drawings and photographs are necessary to illustrate aspects of the invention which cannot be accurately or adequately depicted by an ink drawing.

SUMMARY: PETITION GRANTED

This application is being forwarded to the examiner for consideration of the amendment filed February 26, 2009.

Any questions regarding this letter should be directed to Richard Chilcot at (571) 272-6777.

/Richard E. Chilcot, Jr./

Richard E. Chilcot, Jr.
SPE Art Unit 3635

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of

Mowaffak MIDANI, et al.
Application No. 11/135,010
Filed: May 23, 2005
Attorney Docket No. **24369-10410**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 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 Robert A. Hulse 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 non-final Office action mailed April 28, 2009 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: **MOWAFFAK MIDANI**
P.O. BOX 5068
NAPERVILLE, IL 60567

cc: **ALI TASLIMI**
240 EDINBURGH LANE
PETALUMA, CA 94952

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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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 04/20/2010

Applicant	: Clifford Bueno	: DECISION ON REQUEST FOR
Patent Number	: 7586252	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,012	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **995** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE
MAR 06 2006
PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Martin et al.	) Attorney reference: 36854-01
Serial No.: 11/135,051	) Examiner: Not yet assigned
Filing Date: 5/23/2005	) Confirmation No.: 2885
Title: ASBESTOS REMOVAL PROCESS	) Art Unit: 1755
	) Customer No.: 000046591

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. 1.102(c) and M.P.E.P. § 708.02 IV)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions to make this application special because applicant is over 65 years of age. As a showing of this fact, accompanying this petition is a statement by applicant that he is over 65 years of age.

No fee is required with this petition in accordance with 37 C.F.R. § 1.102(c).

Respectfully Submitted,

John B. Hardaway, III
Attorney for Applicant
NEXSEN PRUET, LLC
Registration No.: 26,554
P.O. Box 10107
Greenville, SC 29603

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Director of the United States Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on

3-6-2006
Date

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

MAR 15 2006

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ALEXANDRIA, VA 22313-1450
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SEP 12 2005

In re Application of	:	
Gerald C. Robertson	:	
Serial No. 11/135,052	:	DECISION ON PETITION
Filed: May 23, 2005	:	TO MAKE SPECIAL
For: PULL TAB AND METHOD	:	

Applicant's petition, filed August 23, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Craig Weiss
Weiss, Moy & Harris, PC
4204 North Brown Avenue
Scottsdale, AZ 85251-3989

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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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APR 30 2009

OFFICE OF PETITIONS

In re Application :
Yong Victoria Wei et al. :
Application No. 11/135,100 : DECISION ON APPLICATION
Filed: May 23, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **18184-0014US1** :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed April 23, 2009. Applicant requests that the determination of patent term adjustment be corrected from five hundred fifty-two (552) days to nine hundred ninety-five (995) 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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PHILADELPHIA PA 19103-6996

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SEP 2 1 2009

OFFICE OF PETITIONS

In re Patent No. 7,541,355
Issued: June 2, 2009
Application No. 11/135,100
Filed: May 23, 2005
Attorney Docket No. 18184-0014US1
(214754)

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed July 2, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred fifty-two (552) days to nine hundred twenty-five (925) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On June 2, 2009, the above-identified application matured into US Patent No. 7,541,355 with a patent term adjustment of 552 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) previously paid on April 23, 2009. 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 patent term adjustment of 925 days (375 + 587 reduced by 2 overlap - 35 for applicant delay).

The Office agrees that at the time the patent issued, the application was pending three years and 375 days after the filing date of this application. The Office agrees that certain actions were not taken within the specified time frames, and thus, a period of adjustment of 587 days for Office delay was entered. At issue is whether patentees should accrue 373 days of patent term adjustment for the Office taking in excess of three years to issue the patent (375 days less the 2 days of overlap), as well as 587 days for Office failure to take certain actions within a specified time frame (or examination delay).

The Office contends that entire 375-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 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).

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, May 23, 2005, to the date the patent issued on June 2, 2009. 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. All of the 375 days for Office delay in issuing the patent overlap with the 587 days of Office delay. Entry of both periods is not warranted. Thus, 587 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly did not enter any 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 552 days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/135,103	05/23/2005	Tsuyoshi Ogawa	075834.00720	3239

7590 01/11/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER	
LE, NHAN T	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
01/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Ricardo Clemons
Patent Publication Branch
Office of Data Management

02 FC:1111 -500.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/135,103	05/23/2005	Tsuyoshi Ogawa	075834.00720	3239

33448 7590 01/10/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER	
LE, NHAN T	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment	Application No.	Applicant(s)	
	11/135,103	OGAWA, TSUYOSHI	
	Examiner	Art Unit	
	Le, Nhan	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Rick Clemons □□Administrative Assistant□□Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/135,115	05/23/2005	Graham Alexander Munro Murdoch	61229-00004USC3

CONFIRMATION NO.
2734

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS TX 75202

Date Mailed: December 9, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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U.S. ARMY SOLDIER SYSTEMS CENTER
15 KANSAS STREET
NATICK, MA 01760

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

In re Application of :
Steven Michael Arcidiacono et al :
Application No. 11/135,130 : DECISION GRANTING PETITION
Filed: May 23, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. NA-1260 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 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 required reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of April 18, 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 the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/135,131
Filing Date	05-23-2005
First Named Inventor	Jesse Crum
Art Unit	1794 (Conf. No. 2972)
Examiner Name	DYE, RENA
Attorney Docket Number	2005-03

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 6-10-08 Jacqueline M. Stone, Director Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Effective 12/01/05 the undersigned ceased to be counsel for assignee of record, Ward/Kraft, inc. Shortly thereafter, assignee of record retained new patent counsel. Although new patent counsel has taken over prosecution of a number of matters, assignee of record has not yet transferred all matters to new counsel. The assignee has been requested on several occasions to file a change of power of attorney, and while they have stated they are in the process of doing so, they have to-date not done so.

CORRESPONDENCE ADDRESS

1. ☑ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☐ Firm *or* Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

Signature	/Michael C. Maier - Reg. No. 36,206/		
Name	Michael C. Maier - Reg. No. 36,206	Registration No.	36,206
Date	04/02/08	Telephone No.	440-534-4833

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ely Zborovsky Patent Bureau
6 Schoolhouse Way
Dix Hills NY 11746

NOV 1 2005

In re Application of:
Timofei Gutkin
Serial No.: 11/135,151
Filed: May 21, 2005
Title: Electrical Battery

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 04, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a drivers license from New Jersey for Timofey Gutkin showing that the he is sixty-five (65) years of age or more. The names do not match therefore, the petition is DISMISSED.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/135,157	05/23/2005	Naoki Sugawara	10009769US01	2953

34904 7590 06/17/2010

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

EXAMINER	
YU, MICKEY	

ART UNIT	PAPER NUMBER
3728	

NOTIFICATION DATE	DELIVERY MODE
06/17/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sivon.kalminov@cda.canon.com
marlene.klein@cda.canon.com
IPDocketing@cda.canon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of	:	
SUGAWARA, NAOKI	:	DECISION ON REQUEST TO
Application No. 11/135,157	:	PARTICIPATE IN PATENT
Filed: May 23, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 10009769US01	:	PROGRAM AND PETITION
For: COMMUNICATION DEVICE AND METHOD FOR CONTROLLING THE SAME	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 15, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate and;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the petition being properly submitted, the request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856. All other inquiries concerning the examination or status of the application should be directed to Mickey Yu, the SPE of Art Unit 3728, and 571-272-4562 for Class 206/459 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

Petition is **granted**.

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 06/03/2010

Applicant	: Shahrokh Shahidzadeh	: DECISION ON REQUEST FOR
Patent Number	: 7640541	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/135,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1015** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND OH 44115-1414

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of

Tanvir Goraya :

Application No. 10/135,159

: DECISION ON PETITION

Filed: April 20, 2002

:

Attorney Docket No. 76295/22343

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2006, 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 non-final Office action mailed June 1, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on September 2, 2005. A Notice of Abandonment was mailed on March 17, 2006.

The amendment filed May 24, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2129 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

6/29/09

Patent No. :7331880
Inventor(s) :Rogers
Issued :6/29/09
Title :Soccer Goal Retainer
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claims1,10 & 22 are printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

HESLIN ROTHENBERG FARLEY & MESFITI P.C.
5 Columbia Circle
Albany, New York 12203-5160

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/10/09

TO SPE OF : ART UNIT 3711 Kim Eugene

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/135,175 Patent No.: 7331880

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Gene Kim/ SPE 3711
SPE

3711
Art Unit

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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
P.O. BOX 5052
TROY MI 48007

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JAN 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Glenn R. Widmann et al :
Application No. 11/135,176 : ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. DP-312913 :

This is a decision on the petition, filed January 7, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 7, 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 January 7, 2008, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kevin T. Grzelak 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. Grzelak 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. Grzelak, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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).

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This file is being referred to Technology Center Art Unit 2612 for processing of the request for continued examination under 37 CFR 1.114 filed January 7, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
KEVIN T. GRZELAK
PRICE, HENEVELD, COOPER, DEWITT & LITTON, LLP
695 KENMOOR, S.E.
POST OFFICE BOX 2567
GRAND RAPIDS, MICHIGAN 49501

UNITED STATES PATENT AND TRADEMARK OFFICE

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Michael Fritze	: DECISION ON REQUEST FOR
Patent Number	: 7583360	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,197	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

Brake Hughes Bellermann LLP
C/O Intellevate
P.O. Box 52050
Minneapolis MN 55402

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MAY 15 2008

OFFICE OF PETITIONS

In re Application of :
Kocaman et al. : DECISION ON PETITION
Application No. 11/135,208 :
Filed: May 23, 2005 :
Atty Docket No. BU4414/0033-131001 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(B) filed March 28, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed September 13, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned effective December 14, 2007. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

Technology Center AU 2817 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed March 28, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DUCKOR SPRADLING METZGER & WYNNE
3043 4TH AVENUE
SAN DIEGO, CA 92103

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of
Frank H. **FOGLEMAN**
Application No. 11/135,232
Filed: May 23, 2005
Attorney Docket No. **3284-100**

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 10, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Bernard L. Kleinke on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **PERFECT SWITCH, LLC**
ATTN: SCOTT STOLPER, PARTNER
11722 SORRENTO VALLEY ROAD, SUITE E
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

Paul K. Legaard
ISIS PHARMACEUTICALS, INC
1896 Rutherford Road
Carlbad, CA 92008

In re Application of :
DEAN, et al. :
Application No. 11/135,255 : DECISION ON PETITION
Filed: May 23, 2005 : TO WITHDRAW
Attorney Docket No. HTS-0059US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 05, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to COZEN O'CONNOR, P.C. has been revoked by the assignee of the patent application on June 29, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Hana Walsh for
David Bucci
Petitions Examiner
Office of Petitions

cc: KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Takayuki Yamamoto et al :
Application No. 11/135,258 : ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. 008312-0316230

This is a decision on the petition, filed February 18, 2009 which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 30, 2009 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 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KENYON & KENYON LLP
1500 K STREET N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Andreas Guldner	: DECISION ON REQUEST FOR
Patent Number	: 7657453	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,268	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **988** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

WILMERHALE/DC
1875 PENNSYLVANIA AVE., NW
WASHINGTON DC 20006

In re Application of :
BOHLIG et al. :
Application No. 11/135,291 : ON APPLICATION FOR
Filed: May 24, 2005 : PATENT TERM ADJUSTMENT
Atty. Docket No. 105452.289US1 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705" filed February 1, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred four (904) days, not four hundred sixty-seven (467) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

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AUG 1 8 2008

In re Application of Robertson et al. :
Application No. 11/135,311 : Decision on Petition
Filing Date: May 23, 2005 :
Attorney Docket No. 1921.0018C :

This is a decision on the petition under 37 CFR 1.47(a) filed May 30, 2008, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventors.

The petition is **granted.**

In view of the efforts recounted in the petition to obtain the signature of the three non-signing inventors, it is agreed that justice would be served by waiving the requirement for the signature of the three inventors on the supplemental declaration filed May 30, 2008.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The instant petition has been properly considered as a petition under 37 CFR 1.183. Once an application containing a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603. The fee for a petition under 37 CFR 1.183 is $400. Petitioner submitted $200 for the petition fee. Therefore, $200 has been charged to petitioner's deposit account for the remaining fee.

Technology Center Art Unit 1797 will be informed of the instant decision and informed the supplemental declaration is acceptable without the signature of all the inventors. Thereafter, 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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MAYER & WILLIAMS PC
251 NORTH AVE. WEST
2ND FLOOR
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Takeshi Nogami	: DECISION ON REQUEST FOR
Patent Number	: 7572738	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,313	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **571** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHLUMBERGER TECHNOLOGY CORPORATION
David Cate
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND, TX 77478

Mail Date: 04/20/2010

Applicant	: John R. Lovell	: DECISION ON REQUEST FOR
Patent Number	: 7617873	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,314	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **540** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHLUMBERGER TECHNOLOGY CORPORATION
David Cate
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND, TX 77478

Mail Date: 05/17/2010

Applicant : John R. Lovell
Patent Number : 7617873
Issue Date : 11/17/2009
Application No: 11/135,314
Filed : 05/23/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **567** 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
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Tomonori Nagashima et al	:	
Application No. 11/135,329	:	DECISION GRANTING PETITION
Filed: May 24, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07057.0032-01000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application 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 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/20/2010

Applicant	: Jung-hwa Choi	: DECISION ON REQUEST FOR
Patent Number	: 7657788	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/135,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **931** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Jae-Ik Kwon	: DECISION ON REQUEST FOR
Patent Number	: 7573196	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **903** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/26/2010

Applicant	: Young Suk Kim	: DECISION ON REQUEST FOR
Patent Number	: 7602031	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/135,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DIW Oct-08

JAMES E. HARRIS
P.O. BOX 160967
AUSTIN TX 78716

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OCT 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Lewis et al.	:	DECISION ON PETITION TO
Application Number: 11/135479	:	WITHDRAW HOLDING OF
Filing Date: 05/23/2005	:	ABANDONMENT
Attorney Docket Number:	:	
35399.41	:	

This is a decision on the petition filed on September 2, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely a reply to the non-final Office action mailed on January 14, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 13, 2008.

The subject petition was filed on September 2, 2008. Petitioners assert that a timely response, including an amendment, was filed by facsimile on April 14, 2008.

In support, petitioners have provided a copy of the amendment asserted to have been timely filed. The reply contains a certificate of transmission dated April 14, 2008. Additionally, a copy of the the USPTO Auto-Reply Facsimile Transmission report, showing that 17 pages, including the cover sheet for the amendment, were received on April 14, 2008. It is additionally noted that the amendment contains a Certificate of Mailing dated April 14, 2008.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

As petitioners have provided convincing evidence that a response to the non-final Office action mailed on January 14, 2008, was transmitted to the USPTO on April 14, 2008, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the notice of abandonment is vacated.

The application is referred to Technology Center Art Unit 1797 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

AUG - 8 2006

TECHNOLOGY CENTER 2100

In re Application of: Yagawa
Application No. 11/135,515
Filed: May 24, 2005
For: SYSTEM AND METHOD FOR AUDITING STORAGE SYSTEMS REMOTELY

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 December 22, 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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MAR 03 2008

In re Application of :
VAN DEN HEUVEL, et al. :
Application No. 11/135,524 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. **COCH-0012-UT1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2007.

The request is **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 Ajay A. Jagtiani on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the first 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: **CONNOLLY BOVE LODGE & HUTZ, LLP**
1875 EYE STREET NW, SUITE 1100
WASHINGTON, DC 20036

cc: **JAYNE ANDREWS**
COCHLEAR LIMITED
14-16 MARS ROAD
LANE COVE, NSW 2066

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/08

TO SPE OF : ART UNIT 3656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11135532 Patent No.: 7404777 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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ➢ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE/Richard WL Ridley/ Art Unit 3656

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
P O BOX 368
RIDGEFIELD CT 06877-0368

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FEB 17 2009

OFFICE OF PETITIONS

In re Application :
Carl Alan Busacca et al. :
Application No. 11/135,533 : DECISION ON APPLICATION
Filed: May 23, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 09-031 6 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed January 12, 2009. Applicant requests that the determination of patent term adjustment be corrected from five hundred eighty-four (584) days to nine hundred twenty-four (924) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that 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.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

On October 17, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 584 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee. Applicant agrees that the delay attributable to the Applicant is sixteen (16) days but argues that the periods calculated under 37 C.F.R. § 1.704 are as follows:

> (C) 2 days under 37 C.F.R. § 1.704(b). An Office Action was issued on June 6, 2008, to which a response was not filed until September 8, 2008, which was 2 days beyond the 3 month period specified in § 1.704(b) - thus, a 2 day reduction.
> (D) 14 total days under 37 C.F.R. § 1.704(c)(8). After the response was filed on September 8, 2008, two supplemental papers were filed on September 9, 2008 and September 22, 2008, leading to reductions under 37 C.F.R. § 1.704(c)(8) amounting to 1 day (for the paper filed September 9, 2008) and 13 days (for the subsequent paper filed September 22, 2008), for a total of 14 days reduction.

A review of the file record confirms that the response to the non-Final Office Action mailed June 6, 2008 was filed September 8, 2008 which accounts for a 2 day reduction and not a 3 day deduction. Further, the review reveals that supplemental responses were filed September 9, 2008 and September 22, 2008 which accounts for 1 additional day of reduction and 13 days reduction, respectively.

Nonetheless, the patent term adjustment at the time of the mailing of the notice of allowance remains 584 days. Given that the alleged error in calculation would not change the Patent Term Adjustment indicated in any patent issued on the above-identified application, it is determined that no further action is required by the Office.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

---

[1] PALM records indicate that the issue fee was paid on January 14, 2009.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Andres, Janet

From: Newsome, Lamonte
Sent: Monday, May 18, 2009 2:02 PM
To: Seaman, Margaret
Cc: Andres, Janet
Subject: 11135533

Paper No.: _____

DATE : 5/18/09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11135533 Patent No.: 7514557 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE AU 1625

5/18/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 19, 2006

TO SPE OF : ART UNIT 2812 Michael Lebentritt

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/135,534 Patent No.: 7004843 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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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: _____

_____

_____

_____

_____

_____ 2812
SPE **Art Unit**

14042 U.S. PTO
052405

Hugh M. Lyman, Jr.

27639 SE 401st Street – Enumclaw, WA 98022 – 360-825-5036 – Fax 360-825-2530 – email hlyman@comcast.net

113256 U.S.PTO
11/135545
052405

Wednesday May 20, 2005

Commissioner for Patents
U.S Patent and Trademark Office
P.O .Box 1450
Alexandria, VA 22313-1450

Ref: Disposable Foldable Cup Holder Ashtray Patent Application

Dear Commissioner:

Attached are the following documents for your consideration:

1. Application for United States Letters Patent.
2. Associated patent drawings.
3. Photograph copies of Prototype.
4. Declaration for Utility or Design Patent Application.
5. Information Disclosure Statement by Applicant.
6. Credit Card Payment Form in the amount of $500.00
7. Copy of Applicants birth certificate.

Please expedite the attached application under paragraph IV of the 708.02 Petition To Make Special [R-2] - 700 Examination of Applications, as my age is over 65.

Thank you,

Sincerely,

Hugh M. Lyman, Jr.
Pro se Applicant

lead

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700

JUN 2 8 2005

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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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Scott Patrick Campbell :
Application No. 11/135,558 : ON PETITION
Filed: May 24, 2005 :
Attorney Docket No.: M4065.0811/P811-A :

This is a decision on the petition under 37 CFR 1.182, filed August 16, 2005, requesting that the above-identified application retain the presently accorded filing date with Figure 4 as part of the original disclosure.

The petition is **dismissed**.

On May 24, 2005, the above-identified application was filed. However, on June 18, 2005, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers", stating that application had been accorded a filing date of May 24, 2005, and advising applicant that Figure 4 appeared to have been omitted.

In response, on August 16, 2005, applicant filed the present petition. Applicant argues the instant application incorporated by reference the entirety of the a prior application, which contained Figure 4, therefore; the instant application was complete on filing.

The Notice permits applicant to either: (1) promptly establish prior receipt in the Office of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the Office with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such omitted items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

An applicant may incorporate by reference the prior application by including in the application-as-filed, a statement that such specifically enumerated prior application or applications are hereby incorporated by reference. The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c).

In view of the incorporation by reference of the prior application, Figure 4 is not new matter if they were a part of the disclosure of the prior application. Petitioner should file Figure 4 as part of a preliminary amendment whereupon the examiner will review it for new matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 24, 2005, using only the application papers present on filing. The copy of Figure 4 will not be processed for examination, but will be kept in the application file.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 24, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

August 10, 2006

FILE COPY

Patent No. : 7,063,136 B2
Ser. No. : 11/135571
Inventor(s) : Yu, et al.
Issued : June 20, 2006
Title : **HEAT DISSIPATION DEVICE HAVING CAP FOR PROTECTING THERMAL INTERFACE MATERIAL THEREON**
Docket No. : **14963-50083**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

CBN/ee

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PCE INDUSTRY, INC.
ATT. CHENG-JU CHIANG JEFFREY T. KNAPP
458 E. LAMBERT ROAD
FULLERTON CA 92835

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JAN 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,083,037 :
Issued: June 20, 2006 :
Application No. 11/135,571 : DECISION ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. US6194 :

This is a decision on the request under 37 CFR 3.81(b), filed September 25, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is GRANTED.

Petitioner requests issuance of a certificate of correction in the name of "FOXCONN TECHNOLOGY CO., LTD."

In accordance with 37 CFR 3.81(b), effective June 25, 2004,:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

The instant petition has been reviewed and found in compliance with current Office provisions concerning certificates of correction to assignee data.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction must be directed to the Certificate of Correction Branch

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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CST

5-23-07

In re application of
Robert M. Gooliak
Serial No. 11/135,580
Filed: May 23, 2005
For: THERMAL BLANKET INCLUDING A RADIATION LAYER

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on April 27, 2007 to make the above-identified application special because of environmental quality.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes 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), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection V (Environmental Quality) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes 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) **on or after August 25, 2006**;
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.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because it was filed prior to August 25, 2006; and it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web.

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 Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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William S. Frommer, Esq.
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 05/13/2010

Applicant	: Tomoshi Hirayama	: DECISION ON REQUEST FOR
Patent Number	: 7639951	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/135,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **583** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/25/2010

Applicant	: Ran-Hong Raymond Wang	: DECISION ON REQUEST FOR
Patent Number	: 7633583	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/135,609	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **729** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Frederick F. Becker	: DECISION ON REQUEST FOR
Patent Number	: 7641779	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **969** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. None

SUITER WEST SWANTZ PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of :
William R. Adams et al. :
Application No. 11/135,616 : DECISION ON PETITION
Filed: May 23, 2005 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. ALC 04-1-2 :
Title: LIVESTOCK SORTING :
FACILITY

This is a decision on the petition filed on December 23, 2005, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the present nonprovisional application is the subject of an application filed in a foreign application on July 14, 2005. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

days subsequent to the filing of the subject application in a foreign country. A Notice of Rescission of Nonpublication Request was filed with the present petition.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of a foreign application that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of a foreign filing, paid the petition fee, and has made the proper statement of unintentional delay.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 22, 2006 accompanies this decision on petition.

Technology Center 3600 will be notified of this decision.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/135,631	05/24/2005	Byoung-Yun Kim	49007

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

DATE MAILED: January 9, 2007

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d) filed December 22, 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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
ELIAN, et al. :
Application No. 11/135,634 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. **543822015100** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KLAUS ELIAN**
BAUMZEIL 3
BUBENREUTH, GERMANY 91088

cc: **GERO G. MCCLELLAN**
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of :
Helene Le BUANEC :
Application No. 11/135,660 : ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. P70484US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 18, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 19, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed December 18, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1647 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Lutz Lohmann	: DECISION ON REQUEST FOR
Patent Number	: 7569843	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,671	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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OFFICE OF PETITIONS

In re Application of :
Fechalos et al. :
Application No. 11/135688 : DECISION ON APPLICATION
Filing or 371(c) Date: 05/24/2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket Number: :
12594-8 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed January 22, 2010.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred five (405) days, including 428 days of Office delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 29, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 83 days.

On January 22, 2009, applicant timely submitted the present application for patent term adjustment[1]. Applicant requests that the Determination of Patent Term Adjustment be corrected from 83 days, as indicated on the Determination of PTA mailed December 29, 2009, to an adjustment of 405 days. Applicant asserts that a reply to a non-final Office action filed March 24, 2009, was erroneously determined to be non-compliant. Applicant provides that once the Office was notified of the error, the Office proceeded on the basis that the response was compliant without further action by Applicants. Accordingly, Applicants aver that the patent term adjustment should properly be measured from March 24, 2009, which was the date the reply was originally filed, to the mailing of the Notice of Allowance on December 29, 2009, or 158 days.

The application history has been reviewed and it has been determined that the initial reduction of the patent term for Applicant delay of 164 days is incorrect. Applicant filed the reply to the non-final Office action on March 24, 2009. In response the Office mailed a Notice of Non-Compliant

[1] PALM records show that the Issue Fee payment was received in the Office on January 22, 2009.

Amendment on August 24, 2009. Applicant filed a response to the Notice of Non-Compliant Amendment on August 24, 2009, asserting that the reply filed March 24, 2009 was compliant. The Office thereafter mailed the Notice of Allowance on December 29, 2009, which was four months and 158 days after the reply of March 24, 2009 was filed.

The correct patent term adjustment at the time of the allowance is **405 days**. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 405 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 405 days.

35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

Applicant's deposit account has been charged the petition fee of $200.00 as authorized in the instant petition.

The application is being forwarded to the Publications Division 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 Attorney Derek L. Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

PTA Calculations for Application: 11/135688			
Application Filing Date:	05/24/2005	PTO Delay (PTO):	270
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	187
Post-Issue Petitions:	0	Total PTA (days):	405
PTO Delay Adjustment:	322		

File Contents History

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62	12/24/2009	DOCUMENT VERIFICATION			
61	12/24/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	12/22/2009	EXAMINER'S AMENDMENT COMMUNICATION			
59	12/22/2009	NOTICE OF ALLOWABILITY			
58	12/18/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
57	12/14/2009	DATE FORWARDED TO EXAMINER			
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54	05/28/2009	CASE DOCKETED TO EXAMINER IN GAU			
52	04/24/2009	DATE FORWARDED TO EXAMINER			
51.2	03/24/2009	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
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49	12/01/2008	MAIL NON-FINAL REJECTION			
48	11/13/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	11/10/2008	NON-FINAL REJECTION			
46	09/09/2008	DATE FORWARDED TO EXAMINER			
45	08/14/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

44	09/09/2008	DATE FORWARDED TO EXAMINER			
43	08/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	09/09/2008	DISPOSAL FOR A RCE / CPA / R129			
41	08/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	07/28/2008	MAIL ADVISORY ACTION (PTOL - 303)			
39	07/24/2008	ADVISORY ACTION (PTOL-303)			
38	07/22/2008	DATE FORWARDED TO EXAMINER			
37	07/21/2008	AMENDMENT AFTER FINAL REJECTION			
36	05/28/2008	MAIL FINAL REJECTION (PTOL - 326)			
35	05/27/2008	FINAL REJECTION			
34	03/16/2008	DATE FORWARDED TO EXAMINER			
33	02/19/2008	RESPONSE AFTER NON-FINAL ACTION			
32	11/19/2007	MAIL NON-FINAL REJECTION			
31	11/13/2007	NON-FINAL REJECTION			
30	10/19/2007	DATE FORWARDED TO EXAMINER			
29	10/10/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
28	10/19/2007	DATE FORWARDED TO EXAMINER			
27	10/10/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
26	10/19/2007	DISPOSAL FOR A RCE / CPA / R129			
25	10/10/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
24	09/14/2007	MAIL FINAL REJECTION (PTOL - 326)			
23	09/12/2007	FINAL REJECTION			
22	07/11/2007	DATE FORWARDED TO EXAMINER			
21	07/02/2007	RESPONSE AFTER NON-FINAL ACTION			
20	04/20/2007	MAIL NON-FINAL REJECTION	270		-1
19	04/16/2007	NON-FINAL REJECTION			
18	09/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	04/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	09/06/2006	REFERENCE CAPTURE ON IDS			
15.7	09/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/12/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

13	09/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	07/29/2005	TRANSFER INQUIRY TO GAU			
11	06/27/2005	APPLICATION RETURN FROM OIPE			
10	06/28/2005	APPLICATION IS NOW COMPLETE			
9	06/27/2005	APPLICATION RETURN TO OIPE			
8	06/27/2005	APPLICATION RETURN FROM OIPE			
7	06/28/2005	APPLICATION IS NOW COMPLETE			
6	06/27/2005	APPLICATION RETURN TO OIPE			
5	06/24/2005	APPLICATION DISPATCHED FROM OIPE			
4	06/27/2005	APPLICATION IS NOW COMPLETE			
3	06/12/2005	CLEARED BY OIPE CSR			
2	06/08/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/24/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Barnes & Thornburg LLP
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100 North Michigan
South Bend, IN 46601-1632

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OFFICE OF PETITIONS

In re Application of :
Rhonda J. Valles :
Application No. 11/135,701 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. 40054-99573 : FROM RECORD
:

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, 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 Grant Peters on behalf of all attorneys of record who are associated with Customer No. 23642.

All attorneys/agents associated with the Customer No. 23642 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 Rhonda J. Valles at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Rhonda J. Valles**
32832 Samuel Circle
Dana Point, IN 92629

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of :
Okoroanyanwu et al. :
Application No. 11/135,721 : DECISION ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. 2000.121800 :

This is a decision on the petition under 37 CFR 1.182, filed January 25, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The Office is in receipt of $130.00. However, the petition fee is $400.00. As authorized, the $270 difference for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 2862 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
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
11/135,721	05/24/2005	2862	1800	2000.121800	32	4

CONFIRMATION NO. 3683

CORRECTED FILING RECEIPT

23720
WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

OC000000029170328

Date Mailed: 03/31/2008

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)

Uzodinma Okoroanyanwu, Clifton Park, NY;
Uwe Knappe, Niemtsch, GERMANY;

Power of Attorney:

Terry Morgan--31181	Kent Cooper--37296
Paul Drake--33491	Barry Newberger--41527
Bradley Botsch--34552	Rubendra Bains--46532
Jeffrey Pyle--34904	Jaison John--50737
J Amerson--35426	Mark Sincell--52226

Domestic Priority data as claimed by applicant

Foreign Applications
GERMANY 10 2004 047 677.2 09/30/2004

If Required, Foreign Filing License Granted: 06/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/135,721**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for contamination detection and monitoring a lithographic exposure tool and operating method for the same under controlled atmospheric conditions

Preliminary Class

355

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/03/2010

Applicant	: Peter Chang	: DECISION ON REQUEST FOR
Patent Number	: 7649569	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/135,724	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1275** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

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OFFICE OF PETITIONS

In re Application of :
Donald Spector :
Application No. 11/135,734 : ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. 200 SOZ 18015 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the Restriction/Election Requirement mailed on March 27, 2009. A Notice of Abandonment was mailed on October 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3728 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

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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

Mail Date: 04/21/2010

Applicant	: Hsieh-Kun Lee	: DECISION ON REQUEST FOR
Patent Number	: 7631850	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,745	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1063** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Malloy & Malloy, P.A.
2800 S.W. Third Avenue
Historic Coral Way
Miami, Florida 33129

In re application of
Thomas Arnold Padrick

Serial Number: 11/135,748
Filed: May 24, 2005

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **PORTABLE MULTI-POINT FLUID DELIVERY SYSTEM**

This is a decision on the petition filed on July 18, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 9/9/05

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Minneapolis, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Edmund Sun, et al.	:	
Application No. 11/135,755	:	DECISION ON PETITION
Filed: May 23, 2005	:	TO WITHDRAW
Attorney Docket No. 19242-002001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Hans R. Troesch on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 30, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Edmund Sun**
1 Atherton Oaks Lane
Atherton, CA 94027

cc: **C2 Microsystems**
525 Race Street, Suite 100
San Jose, CA 95126

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/135,755	05/23/2005	Edmund Sun	19242-002001

CONFIRMATION NO. 4534

POWER OF ATTORNEY NOTICE

26181
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 09/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2008.

- 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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CST

3-30-07

In re application of :
Hans A. Ward :
Serial No. 11/135,770 : DECISION ON PETITION
Filed: May 24, 2005 : TO MAKE SPECIAL
For: METHOD OF PROTECTING WOOD :
THROUGH ENHANCED PENETRATION :
PENETRATION OF WOOD PRESERVATIVES :
AND RELATED SOLUTION :

This is a decision on the petition filed on January 8, 2007 to make the above-identified application special.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes 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), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection V (Environmental Quality) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes 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) on or after August 25, 2006;
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.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed on or after August 25, 2006 (the filing date is May 24, 2005); it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; the application at the time of filing was not complete (see the Notice to File Missing Parts of Nonprovisional Application mailed June 20, 2005); and the application contained more than twenty claims (80 claims were present upon filing).

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 Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Gilbert Cabillic, et al. :
Application No. 11/135,796 : DECISION ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. TI-38587 (1962-22800) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 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, August 17, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2183 for appropriate action by the Examiner in the normal course of business on the reply received

April M. Wise
Petitions Examiner
Office of Petitions

Cc: MICHAEL E. RAMON
701 BRAZOS STREET
SUITE 500
AUSTIN, TX 78701

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TEXAS INSTRUMENTS INCORPORATED
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DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Gilbert Cabillic, et al. :
Application No. 11/135,796 : DECISION ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. TI-38587 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 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, July 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

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 2183 for appropriate action by the Examiner in the normal course of business on the reply received April 13, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 11 2005

MELVIN J. SCOLNICK
11041 VIA SAN REMO
BOYNTON, BEACH, FL 33437

In re application of Milton S. Cotter Application No. 11/135,805 Filed: May 25, 2005 For: EMPLOYMENT CENTER	: : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on July 08, 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. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 10/03/05

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NOV - 9 2005

MELVIN J. SCOLNICK
11041 VIA SAN REMO
BOYNTON, BEACH FL 33437

In re application of	:	**DECISION ON PETITION**
Milton S. Cotter	:	**TO MAKE SPECIAL**
Application No. 11/135,805	:	**(ACCELERATED**
Filed: May 25, 2005	:	**EXAMINATION)**
For: EMPLOYMENT CENTR		

This is in response to the renewed petition filed on October 24, 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/slb: 11/02/05

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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WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of
Abdul Rasoul Salman
Application No. 11/135,810
Filed: May 24, 2005
Attorney Docket No. 417/9-1553B

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, 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 William J. Sapone on behalf of all attorneys of record who are associated with customer No. 28147.

All attorneys/agents associated with the Customer Number 28147 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 are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. ABDUL RASOUL SALMON
3228 EAST 15TH STREET
PANAMA CITY, FL 32405-7423

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/135,810	05/24/2005	Abdul Rasoul Salman	417/9-1553B

CONFIRMATION NO. 4989

OC000000023531565

OC000000023531565

28147
WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT, CT 06605

Date Mailed: 04/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/11/2006.

- 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.

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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P.O. Box 1450
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JJGJR.: 02-06

Paper No: __

GUNNISON MCKAY
& HODGSON, LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY CA 93940

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of
Jacobson, et al.
Application No. 11/135,838
Filed: 23 May, 2005
Attorney Docket No. SUN040808

ON PETITION

This is a decision on the petition filed on 1 December, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 23 May, 2005, without, *inter alia*, a fully executed oath/declaration;
- on 16 June, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- on 1 December, 2005, Petitioner Forrest Gunnison (Reg. No. 39,899) filed, *inter alia*, the instant petition, along with an oath/declaration containing the signature of named co-inventors Chaudry (for himself and on behalf of) but without the signature of named non-signing co-inventor Quinn A. Jacobson (Mr. Jacobson), a narration by Petitioner–and submission of an Email from the non-signing inventor and supporting decisions in Application No. 11/082,281, 11/082,282 and 11/083,163 wherein, as here, the non-

signing inventor refused to accept delivery of applications from Sun Microsystems, putative owner of the instant application, is which he is a joint inventor due to his new employment and concerns for conflicts of interest.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 02-06

Paper No: __

QUINN A. JACOBSON
598 SUNNYMOUNT AVE.
SUNNYVALE, CA 94087

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of
Jacobson, et al.
Application No. 11/135,838
Filed: 23 May, 2005
Attorney Docket No. SUN040808

COMMUNICATION

Dear Quinn A. Jacobson:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

care to join the application; counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
GUNNISON MCKAY
& HODGSON, LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY CA 93940

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/135,843	05/23/2005	J. Brett Rolfson	99-0356.03 MICS:0039-3/F

FLETCHER YODER (MICRON TECHNOLOGY, INC.)
P.O. BOX 692289
HOUSTON TX 77269-2289

DATE MAILED: September 13, 2007

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d) filed August 28, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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DEC 26 2006

OFFICE OF PETITIONS

In re Application of :
Bhatia et al. : DECISION ON PETITION
Application No. 11/135,857 :
Filed: May 23, 2005 :
Attorney Docket No. :
EH-11555(05-147) :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.8" filed September 21, 2006.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed March 1, 2006. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on June 2, 2006. A Notice of Abandonment was mailed on September 21, 2006.

In response, applicants timely filed the instant petition. Petitioner states that a response was mailed on May 19, 2006 with the necessary certificate of mailing. In support thereof, petitioner submits *inter alia* a copy of the response as filed and a statement of timely mailing by Rachel Piscitelli, the IP paralegal who signed the certificate of mailing under § 1.8.

37 CFR 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, 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.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated May 19, 2006.

Accordingly, the Notice of Abandonment mailed September 21, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1775 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to the Office action resubmitted on petition filed September 21, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MOUNTAIN VIEW CA 94041

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FEB 26 2007

OFFICE OF PETITIONS

In re Application of :
STEELBERG et al. :
Application No. 11/135,859 :
Filed: May 23, 2005 :
Attorney Docket No. 24207-11470 :
PGPUB: 9/21/06 US2006/0212898 A1 :

DECISION
ON PETITION

This is a decision on the petition filed August 24, 2006, on behalf of the assignee, which is being treated under 37 CFR 1.181 and MPEP 106 as a request to control inspection of the file by the named inventor(s).

The petition to control inspection is dismissed **as moot.**

As permitted by 37 CFR 3.71, the assignee of the entire interest, dMarc Broadcasting Inc., which assignment of the inventor's rights title and interest has been recorded with the USPTO, has intervened herein within the meaning of 37 CFR 3.73(b) and MPEP 324. As explained in MPEP 106, the assignee of the entire interest may request that the USPTO preclude access to the file by the named inventor(s). Such a request may be granted, to the extent that the inventor(s) will only be permitted to inspect the application upon a sufficient showing that such inspection is necessary to conserve his or her rights. See In re The Kellogg Switchboard & Supply Company, 1906 C.D. 274 (Comm'r Pat. 1906).

However, all access restrictions cease upon publication or issuance of this or any other application in the benefit chain as then the public would then, inequitably, have more access to the application than a named inventor. See MPEP 106. Since the above-captioned application was published on September 21, 2006, then the issue of restricting access to any party is now moot.

Telephone inquiries related to this decision should be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

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NOV 29 2006

OFFICE OF PETITIONS

In re Application of:
Steelberg et al.
Application No. 11/135,860
Filed: May 23, 2005
Docket No.: 24207-11471
PGPUB: 09/21/2006 US20060212899A1

: ON PETITION

This is a decision on the petition filed August 24, 2006, on behalf of the assignee, which is being treated under 37 CFR 1.181 and MPEP 106 as a request to control inspection of the file by the named inventor(s).

The petition to control inspection is dismissed **as moot.**

As permitted by 37 CFR 3.71, the assignee of the entire interest, dMarc Broadcasting Inc., which assignment of the inventor's rights title and interest has been recorded with the USPTO, has intervened herein within the meaning of 37 CFR 3.73(b) and MPEP 324. As explained in MPEP 106, the assignee of the entire interest may request that the USPTO preclude access to the file by the named inventor(s). Such a request may be granted, to the extent that the inventor(s) will only be permitted to inspect the application upon a sufficient showing that such inspection is necessary to conserve his or her rights. See In re The Kellogg Switchboard & Supply Company, 1906 C.D. 274 (Comm'r Pat. 1906).

However, all access restrictions cease upon publication or issuance of this or any other application in the benefit chain as then the public would then, inequitably, have more access to the application than a named inventor. See MPEP 106. Since the above-captioned application was published on September 26, 2006, then the issue of restricting access to any party is now moot.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
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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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Joseph J. Fatula JR.	: DECISION ON REQUEST FOR
Patent Number	: 7584226	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,876	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **555** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAHRET & ASSOCIATES
320 NORTH MERIDIAN STREET
SUITE 510
INDIANAPOLIS IN 46204

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Wait, Irving S.	:	
Application No. 11/135,887	:	ON PETITION
Filed: May 24, 2005	:	
Attorney Docket No. 170-3	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 9, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement signed by the applicant, which includes his date-of-birth. 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 3747 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

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APR 11 2007

OFFICE OF PETITIONS

In re Application of :
Kenneth J. **WHALEN, et al.** :
Application No. 11/135,888 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. W54023 1020.1 (2.9) : FROM RECORD
:

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 4, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Inability to establish effective working relationship" 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: **KENNETH J. WHALEN**
WHALEN FRNITURE MANUFACTURING INC.
1578 AIR WING ROAD
SAN DIEGO, CA 92154

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Kazumasa Ito	: DECISION ON REQUEST FOR
Patent Number	: 7647143	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,890	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1268** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: William A. Wojtczak	: DECISION ON REQUEST FOR
Patent Number	: 7605113	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,892	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **103** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

17 OCT 2008

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Stephen Funk
Keating & Bennett, LLP
8180 Greenboro Drive, Suite 850
McLean, VA 22102

In re Application of	:	
Rudolf BARTELS	:	DECISION ON
Application No.: 11/135,901	:	
PCT No.: PCT/EP03/050893	:	
Int. Filing Date: 25 November 2003	:	PETITION
Priority Date: 25 November 2002	:	
Attorney Docket No.: GNO2133	:	
For: MEHTOD FOR GENERATING...	:	UNDER 37 CFR1.182
OF AN IMAGE	:	

This is response to applicant's communication "PETITION UNDER 37 CFR 1.182," to change the application type from filed under 35 USC 111(a) to filed under 35 USC 371 filed on 14 August 2008. The petition fee of $400.00 set forth in §1.17(h) has been charged to applicant's Depsoit Account No.: 50-1353 as specified in the petition.

BACKGROUND

On 25 November 2003, applicant filed international application PCT/EP03/050893, which claimed priority of an earlier application filed 25 November 2002.

On 24 May 2005, applicant filed the application, which was accompanied by, inter alia, with the amount of $1,200.00 for the filing fees, a specification, and claims. The application was processed as filing under 35 U.S.C. §111(a).

On 24 May 2005, applicant filed the instant petition to convert the above application filed under 35 USC §111(a) to a national stage application filed under 35 USC §371.

DISCUSSION

Any intended filing under 35 U.S.C. 371 a national stage application must clearly and unambiguously be identified as such, otherwise the submission will be treated as being filed under 35 U.S.C. 111(a). Note 37 CFR 1.494(f), 1.495(g) and MPEP 1893.03(a).

Applicant's submission did request treatment under 35 U.S.C. 371, as evidenced by the transmittal letter which states that the application is a 35 USC 371 of international application PCT/EP2003/050893, and a preliminary amendment that stated the same.

Therefore the application was improperly treated as an application under 35 U.S.C. 111 (a) (37 CFR 1.495(g)).

CONCLUSION

The petition for the reasons noted above is **GRANTED** without prejudice.

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Vernon Thomas Jensen	: DECISION ON REQUEST FOR
Patent Number	: 7603155	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,908	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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YING CHEN
255 S. GRAND AVE.
215
LOS ANGELES CA 90012

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:
Lam	: DECISION REFUSING
Application No. 11/135,916	: STATUS UNDER
Filed: May 23, 2005	: 37 CFR 1.47(b)
Attorney Docket No. P-15370	:
For: IMPROVED BUBBLE SOLUTION FORMULA AND METHOD OF MANUFACTURE	:

This decision is in response to the petition under 37 CFR 1.47(b), filed November 18, 2005 (certificate of mailing date November 15, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 23, 2005 without an executed oath or declaration. Accordingly, on June 15, 205, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on November 18, 2005 (certificate of mailing date November 15, 2005), the surcharge, a reference to the assignment document recorded at Reel/Frame 015451/0265, which assigns to Funrise Toys, Ltd. The entire right, title and interest in the invention described in provisional application no. 60/574,358, the petition fee, a blank declaration for patent application, and the instant petition were filed. A declaration by Alex Cheung, employee of Funrise Toys, Ltd. explains that the complete application and a declaration were mailed to Mr. Lam, along with a request that he sign the declaration. No response was received from Mr. Lam.

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.

With respect to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

First, the declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration.

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

Second, Mr. Lam's citizenship must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing Mr. Lam's complete information and signed by the Rule 1.47 applicant is REQUIRED. See MPEP 409.03(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

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

YING CHEN
255 S. GRAND AVE.
215
LOS ANGELES CA 90012

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In re Application of :
Lam :
Application No. 11/135,916 : ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. P-15370 :
For: IMPROVED BUBBLE SOLUTION FORMULA AND METHOD OF MANUFACTURE

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed March 29, 2006 (certificate of mailing date March 27, 2006).

The petition is granted.

Petitioner has shown that the non-signing inventor, Wai Shun Wilson Lam, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration by Alex Cheung, employee of Funrise Toys, Ltd., explains that the complete application and a declaration were mailed to Mr. Lam, along with a request that he sign the declaration. No response was received from Mr. Lam. In addition, petitioner has provided a reference to the assignment document recorded at Reel/Frame 015451/0265, which assigns to Funrise Toys, Ltd. the entire right, title and interest in the invention described in provisional application no. 60/574,358. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 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 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.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3714 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :
GONZAGA :
Application No. 11/135,922 : DECISION ON PETITION
Filed: May 23, 2005 : TO WITHDRAW
Attorney Docket No. 14174 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Gemrich.

Catherine L. Gemrich 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 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SEP 26 2008

OFFICE OF PETITIONS

ORUM & ROTH
53 WEST JACKSON BOULEVARD
CHICAGO IL 60604-3606

In re Application of :
Gonzaga : DECISION ON PETITION
Application No. 11/135,922 :
Filed: May 23, 2005 :
Docket No.: 14174 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 28, 2008.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed October 18, 2007. The final Office action set a three month shortened statutory period of time for reply. A reply was filed March 20, 2008. The reply failed to place the application in condition for allowance, as indicated by the Advisory Action mailed May 1, 2008. Notice of Abandonment June 26, 2008.

Petitioners assert that a request for continued examination (RCE) was submitted on April 18, 2008. The reply bore a certificate of facsimile date of April 18, 2008 in accordance with 37 CFR 1.8.

The original response filed April 18, 2008 has not been located in the application file.

The evidence presented, nonetheless, is convincing.

However, the fee for petition for three month extension of time has not been submitted and the deposit account referenced in the petition does not contain sufficient funds at the present time to charge the fee due.

In view thereof, the petition to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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53 WEST JACKSON BOULEVARD
CHICAGO IL 60604-3606

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OFFICE OF PETITIONS

In re Application of :
Gonzaga : DECISION ON PETITION
Application No. 11/135,922 :
Filed: May 23, 2005 :
Docket No.: 14174 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 26, 2008.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed October 18, 2007. The final Office action set a three month shortened statutory period of time for reply. A reply was filed March 20, 2008. The reply failed to place the application in condition for allowance, as indicated by the Advisory Action mailed May 1, 2008. Notice of Abandonment June 26, 2008.

Petitioners assert that a request for continued examination (RCE) was submitted on April 18, 2008. The reply bore a certificate of facsimile date of April 18, 2008 in accordance with 37 CFR 1.8.

The original response filed April 18, 2008 has not been located in the application file.

The evidence presented has been carefully reviewed and found convincing.

In view thereof, the holding of abandonment with **WITHDRAWN**, the Notice of Abandonment is **VACATED**, and the petition to withdraw the holding of abandonment is hereby **GRANTED**.

This application is being directed to Group Art Unit 3723 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

Mail Date: 04/21/2010

Applicant	: Mark R. Schlabach	: DECISION ON REQUEST FOR
Patent Number	: 7661583	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/135,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **890** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Sun Microsystems, Inc.
c/o DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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AUG 18 2008

In re Application of :
Sorin Iacobovici :
Application No. 11/135,982 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. 20910/1205549-US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Darby & Darby P.C. has been revoked by the assignee of the patent application on July 2, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Osha Liang L.L.P/SUN**
1221 McKinney, Suite 2800
Houston, TX 77010

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GARY L. HUUSKO
SUITE 600
7300 WEST 147TH STREET
APPLE VALLEY, MN 55124

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OCT 1 0 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Schuchardt, Peter W.
Application No. 11/135,984
Filed: May 24, 2005
Attorney Docket No. 7596-24160

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 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 a Response to the Office Action (previously submitted on August 18, 2008), (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3652 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-8-09 Paper No.: _____

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 11135986 Patent No.: 7424321

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.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: APPROVAL OF RULE 1.48(a)(2). CHANGE OF INVENTORSHIP IS BEING ~~SENT~~ MAILED SEPARATELY. NEW BIB DATA SHEET HAS BEEN GENERATED.

Carl H. Layno — SPE

3766 — Art Unit

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Kuo Chen Shih	: DECISION ON REQUEST FOR
Patent Number	: 7632959	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,005	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **256** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/26/2010

Applicant	: Jian Wang	: DECISION ON REQUEST FOR
Patent Number	: 7594013	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/136,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **793** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEP 02 2008

Xin Wen
3449 Rambow Drive
Palo Alto, CA 94306

In re Application of	:	
Jian Liu	:	
Application No. 11/136,040	:	ON PETITION
Filed: May 23, 2005	:	
Attorney Docket No. LJ0502	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3).

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 August 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2).

As to item (1), the amendment filed on December 27, 2007(a copy of the previously filed amendment, filed along with the petition to revive) 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, mailed on February 6, 2008.

As to item (3) no proper statement was provided that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/136,040	05/23/2005	Jian Liu	Liujian0502	4797

7590 02/06/2008

Bo-In Lin
13445 Mandoli Drive
Los Altos Hills, CA 94022

EXAMINER	
STAFFORD, PATRICK	

ART UNIT	PAPER NUMBER
2828	

MAIL DATE	DELIVERY MODE
02/06/2008	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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/136,040	Applicant(s) LIU, JIAN	
	Examiner PATRICK STAFFORD	Art Unit 2828	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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.

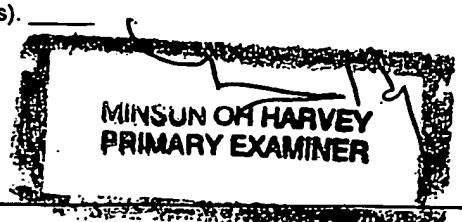
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ 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: _____.



Continuation of 3. NOTE: Claims now require an all fiber based amplification system and a fiber based inline polarization controller.

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Xin Wen
3449 Rambow Drive
Palo Alto, CA 94306

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OFFICE OF PETITIONS

In re Application of :
Jian Liu :
Application No. 11/136,040 : ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. LJ0502 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2008, 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 August 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2).

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 $770, 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 2828 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

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GIFFORD, KRASS, GROH, SPRINKLE
& CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

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OFFICE OF PETITIONS

In re Application of

Pascal Garrido :

Application No. 11/136,061

: DECISION ON PETITION

Filed: May 24, 2005

:

Attorney Docket No. DAS-11902/50

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2006, 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 non-final Office action mailed September 20, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 21, 2005. A Notice of Abandonment was mailed on May 2, 2006.

The amendment filed May 15, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3636 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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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	:	
Aram Mooradian, et al.	:	
Application No. 11/136,071	:	DECISION ON PETITION
Filed: May 23, 2005	:	TO WITHDRAW
Attorney Docket No. NOVX-020/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 13, 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 Edward Van Gieson on behalf of all attorneys of record who are associated with customer No. 23419.

All attorneys/agents associated with the Customer Number 23419 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. 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 February 14, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SIMON FIELD
ARASOR INTERNATIONAL
411 CLYDE AVENUE
MOUNTAIN VIEW, CA 94043

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/136,071	05/23/2005	Aram Mooradian	LA-6874-113XX-C1

CONFIRMATION NO. 3990

POWER OF ATTORNEY NOTICE

23419
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
Washington, DC 20001

OC000000032356568

Date Mailed: 09/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of :
LOBODZINKSKI :
Application No. 11/136,076 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. SLOBO. 001A : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 28, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James W. Hill, M.D. on behalf of all attorneys of record who are associated with Customer No. 20995. All attorneys/agents associated with the Customer No. 20995 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed, all future communications from the Office will be directed to the first named signing inventor at the first copied address listed below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: S. Suave Lobodzinski, Phd.
5560 Saint Irmo Walk
Long Beach, CA 90803

S. Suave Lobodzinski, Phd.
1250 Bellflower Boulevard
Long Beach, CA 90840-8303

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/136,076	05/24/2005	S. Suave Lobodzinski	SLOBO. 001A

CONFIRMATION NO. 4002

OC000000021389389

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 11/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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Herbert Joe
2809 Creek Side Drive
Edmond, OK 73003

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OFFICE OF PETITIONS

In re Application of :
Mark A. Feanny :
Application No. 11/136,088 : DECISION ON PETITION
Filed: May 23, 2005 : TO WITHDRAW
Attorney Docket No. FEANNY : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2006.

The request is **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 G. Peter Albert, Jr. 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 Mark A. Feanny at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri S. Williams for

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Mark Feanny, M.P.**
c/o Reztrak, LLP
2496 Bolsover, #617
Houston, TX 77005