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Justin R. White
BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

AUG 29 2006

In re Application of: LINDQUIST
Appl. No.: 11/136,095
Filed: March 23, 2005
For: GAMBLING CHIP RECOGNITION SYSTEM

: DECISION ON PETITION
: Under 37 CFR 1.59

This is a response to the petition(s) under 37 CFR 1.59(b), filed on May 12, 2006, June 5, 2006 and July 17, 2006 by which petitioners request to expunge information from the above identified application.

The decision on the petition *will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided*.

Petitioner requests that the information submitted in each of the Information Disclosure Statement(s), filed May 12, 2006, June 5, 2006 and July 17, 2006 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. All documents have been received. Each petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition(s) is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to the applicant.

The documents in question will not be available to the public during prosecution.

Any questions concerning this decision should be directed to J. Harrison, TC 3700 Special Programs Examiner at 571-272-4449.

Decision held in ABEYANCE.

Karen M. Young

Karen M. Young, Director
Technology center 3700

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BEYER WEAVER LLP
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OAKLAND, CA 94612-0250

In re Application of:
Thomas Lindquist
Serial No.: 11/136095
Filed: March 23, 2005
Docket: 20104.03
Title: GAMBLING CHIP RECOGNITION SYSTEM

AUG 20 2007

DECISION ON PETITION
UNDER 37 C.F.R. 1.59

This is a response to the petition under 37 CFR 1.59(b), filed October 19, 2006 and again on February 5, 2007 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner originally requested that the information submitted in each of the previous Information Disclosure Statements, filed May 12, 2006, June 5, 2006, and July 17, 2006 be expunged from the record. On August 29, 2006, the decision was held in abeyance until prosecution on the merits was closed and the examiner could determine whether the documents were considered "material."

Petitioner currently requests that the materials accompanying the October 19, 2006 Information Disclosure Statement listed as Other Documents C1-C12 on the PTO-1449 be expunged. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. Office records indicate that the petition fee set forth in 37 CFR 1.17(g) has been paid.

Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;

(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Although petitioner satisfies each of these requirements, prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged in "material" with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution of the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file. The information has been closed from public view for the remainder of prosecution.

Questions concerning this decision should be directed to Special Programs Examiner J. Harrison at 571-272-4449.

Karen M. Young, Director
Technology Center 3700

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P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of LINDQUIST, THOMAS :
Appl. No.: 11/136,095 : **DECISION ON PETITION**
Filed: May 23, 2005 : **UNDER 37 CFR 1.59**
Attorney Docket Number: IGT1P901C1X1C3 :
For: GAMBLING CHIP RECOGNITION SYSTEM

This is a decision on the petitions under 37 CFR 1.59(b), filed Aug. 17, 2007 and again Oct. 22, 2007 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the information submitted in each of the Information Disclosure Statements under the heading of Other Documents filed Aug. 17, 2007 and Oct. 22, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petitions is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to

be material, the information will be removed from the official file. The information has been closed from public view for the remainder of prosecution.

Questions concerning this decision should be directed to Special Programs Examiner Henry C. Yuen at 571-272-4856.

Decision held in ABEYANCE.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/136,095	05/23/2005	Thomas Lindquist	IGT1P901C1X1C3	3955

79646 7590 07/28/2009

Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

EXAMINER	
WILLIAMS, ROSS A	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
07/28/2009	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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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11136095	5/23/2005	LINDQUIST, THOMAS	IGT1P901C1X1C3

Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

EXAMINER	
ROSS WILLIAMS	
ART UNIT	**PAPER**
3714	20090702

DATE MAILED:

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

Commissioner for Patents

See attached decision on petition under 37 CFR 1.59.

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In re Application of LINDQUIST, THOMAS
Appl. No.: 11/136,095
Filed: May 23, 2005
For: GAMBLING CHIP RECOGNITION SYSTEM

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed October 22, 2007, to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document entitled "Other Documents (Subject to protective Order): C1-C4", filed October 22, 2007 on Form-1449 (Modified), be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

Robert P. Olszewski, Director
Technology Center 3700
Mechanical Engineering, Manufacturing, Products and Designs
/Robert P Olszewski/
Director, Technology Center 3700

Enclosure: Form-1449 (Modified)

OIPE IAP20 OCT 22 2007 PATENT & TRADEMARK OFFICE

Form PTO-1449 (Modified)	Atty Docket No.	Application No.:
Information Disclosure Statement By Applicant	IGT1P901C1X1C3	11/136,095
	Applicant: Thomas Lindquist	
	Filing Date	Group
(Use Several Sheets if Necessary)	May 23, 2005	3714

U.S. Patent Documents

Examiner Initial	No.	Patent No.	Date	Patentee	Class	Sub-class	Filing Date
	A						

Foreign Patent or Published Foreign Patent Application

Examiner Initial	No.	Document No.	Publication Date	Country or Patent Office	Class	Sub-class	Translation	
							Yes	No
	B							

Other Documents (Subject to protective Order)

Examiner Initial	No.	Author, Title, Date, Place (e.g. Journal) of Publication
	C1	"PLAINTIFFS' SUPPLEMENTAL POINTS AND AUTHORITIES REGARDING OBVIOUSNESS AND THE IMPACT OF THE SUPREME COURT'S *KSR* DECISION ON THE PENDING SUMMARY JUDGMENT MOTIONS," CV-N-04-0407-ECR (RAM), October 4, 2007, 35 pages.
	C2	"DEFENDANTS' SUPPLEMENTAL POINTS AND AUTHORITIES REGARDING THE EFFECT OF KSR INT'L CO. V. TELEFLEX, INC. ON THE PARTIES' PENDING SUMMARY JUDGMENT MOTIONS," CV-N-04-0407-ECR (RAM), October 4, 2007, 35 pages.
	C3	"DEFENDANTS' SUPPLEMENTAL STATEMENT OF UNDISPUTED MATERIAL FACTS [LR 56-1] IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,781,647," CV-N-04-0407-ECR (RAM), October 4, 2007, 16 pages.
	C4	"DEFENDANTS' SUPPLEMENTAL STATEMENT OF UNDISPUTED MATERIAL FACTS [LR 56-1] IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6, 313,871," CV-N-04-0407-ECR (RAM), October 4, 2007, 12 pages.

Examiner	Date Considered

Examiner: Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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

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OFFICE OF PETITIONS

In re Application of :
Georg H. Fey et al. :
Application No. 11/136,096 : DECISION ON PETITION
Filed: May 23, 2005 : TO WITHDRAW
Attorney Docket No. BELA-003 : FROM RECORD
:

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 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 Karl Bozicevic on behalf of all attorneys of record who are associated with Customer No. 24353.

All attorneys/agents associated with the Customer No. 24353 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Georg H. Fey**
Streitbaumweg 8
Neunkirchen am Brand
D 91077
Germany

cc: **Peter J. Dehlinger**
Perkins Cole
101 Jefferson Drive
Menlo Park, CA 94025-1114

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JAN 30 2008

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Georg H. Fey
Streitbaumweg 8
Neunkirchen am Brand D 910-77 DE GERMANY

In re Application of	:
Fey et al.	:
Serial No.: 11/136,096	: PETITION DECISION
Filed: May 23, 2005	:
Attorney Docket No.: BELA-003	:

This is in response to the petition under 37 CFR 1.59(b), filed August 29, 2007, to expunge Information from the above identified application.

Petitioner requests that the papers submitted with the petition on August 29, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information is described as papers submitted in support of a "Petition to Withdrawn Holding of Abandonment-Office Action Not Received". The material contained within the letter has been determined to have no bearing on the determination of patentability of this application. In view of this determination, expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, applicants' petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact Marianne C. Seidel by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at general Office facsimile number.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

In re Application of	:	
KIMATA, TOSHIHIRO et al.	:	MAR - 3 2009
Application No.: 11/136,104	:	DECISION ON
Filing or 371(c) Date: 05/24/05	:	PETITION
Attorney Docket Number: F-8689	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed July 31, 2008.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed March 7, 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 inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD, CA 92008

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OFFICE OF PETITIONS

In re Application of :
Hofstadler et al. :
Application No. 11/136,134 :
Filed: May 24, 2005 :
Attorney Docket No. DIBIS-0059US :

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 27, 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 Isis Pharmaceuticals, Inc, has been revoked by the assignee of the patent application on January 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: CASIMIR JONES, S.C.
440 SCIENCE DRIVE
SUITE 203
MADISON, WI 53711

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20333 SH 249 6th Floor
HOUSTON TX 77070

In re Application of :
Rodman et al. :
Application No. 11/136,137 : ON APPLICATION FOR
Filed: May 24, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 199-0328US :
:

This is in response to the "Request For Reconsideration Of Patent Term Adjustment," filed August 27, 2009. This petition is properly treated under 37 CFR §1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred five (805) days to eight hundred seven (807) days.

The request for review of the patent term adjustment is **Dismissed**.

On June 11, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 805 days. Applicants dispute the 2-day reduction for the submission of the reply to the February 2, 2009 non-final Office action two days beyond the three-month reply period of May 2, 2009.

Applicants contend that a 2-day reduction for the submission of the reply to the non-final Office action on May 4, 2009 should not be assessed. Applicant maintains since the reply period ended on Saturday, the reply submitted on the next business day May 4, 2009 does not constitute a failure to engage in reasonable efforts.

The Office has considered applicants' argument but does not find it persuasive. The Office has concluded that the reduction of 2

days was properly entered based on 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In this instance, a reduction of 2 days for the submission of reply on May 4, 2009 is warranted. The PTA was properly reduced by 2 days, the number of days in excess of three months that was taken to reply to the May 2, 2009 Office action. The fact that a reply could be filed on May 4, 2009 and be deemed timely to avoid abandonment or the requirement to submit extension of time fees does not mean a reduction is not warranted. The actual date of receipt of the correspondence in the Office is used for all other purposes. The Office notes that the date of filing of a paper will be used in calculating any periods of reduction of patent term adjustment. If applicant wanted to avoid a reduction applicant was advised they should consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant could have chosen to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

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 eight hundred five (805) days.

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 of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries specific to this matter should be directed to the Petitions Attorney Charlema Grant at (571) 272-3215.

/Kery A. Fries/

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

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TIMOTHY M. BARLOW
CMR 480 Box 0007
APO AE 09128

9/5/08

In re Application of:	:	
MUMAW, JAMES W.	:	
Serial No.: 11/136,157	:	
Filed: May 24, 2005	:	DECISION ON PETITION
Docket: MUM-0501	:	
Title: GOLF CARD GAME	:	
	:	

This is a decision on the petition filed on Aug. 18, 2008 seeking reconsideration of the finality of the Office action mailed May 16, 2008. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the Aug. 18, 2008 petition, the petitioner requests the finality of the Office action of May 16, 2008 be reconsidered because the applicant believes that the 37 CFR 1.116 amendment filed with the petition would place the newly amended claims in condition for allowance.

The record shows that:

1) On Dec. 31, 2007, the examiner mailed a non-final Office Action. Claims 1 and 7 were rejected under 35 U.S.C. 102 (b) as being clearly anticipated by Germain (U.S. Pat. Re. 34,346). Claims 2, 3 and 8-14 were rejected under 36 USC 103 as unpatentable over Germain (U.S. Pat. Re. 34,346) in view of Horowitz U.S. Pat. 1,577,284).
2) On Jan. 18, 2008, the applicant submitted a Reply under 37 CFR 1.111 with amendment to the claims and traversed the rejection.
3) On May 16, 2008, the examiner mailed a final Office action. Claims 1 and 7 were rejected on the same ground under 35 U.S.C. 102 (b) as being anticipated by Germain (U.S. Pat. RE. 34,346).
4) On Aug. 13, 2008, a telephone interview was conducted between the examiner and the applicant's attorney. No agreement was reached.
5) On Aug. 18, 2008 the present petition was filed. Applicant requests reconsideration of the finality of the final Office action so that the applicant may be amended the claims under 37 CFR 1.116 as filed with the petition.

Discussion and Analysis

It is noted that petitioner did not allege any impropriety of the finality of the final rejection of May 16, 2008. A further review of the record shows that the instant petition was filed more than three months after the mailing date of the final Office action of May 16, 2008. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of May 16, 2008 will not be granted.

With regard to the amendment filed on Aug. 18, 2008 with the petition, the examiner will decide whether or not the amendment complies with 37 CFR 1.116. An advisory action will be forthcoming in due course.

Conclusion

In view of the record, petitioner's request to reconsider the finality of the Office action dated May 16, 2008 is dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3711 for consideration of the amendment filed under 37 CFE 1.116. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Robert Olszewski, Director
Technology Center 3700

[1] 37 CFR 1.181(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.

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

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OFFICE OF PETITIONS

In re Application of	:	
Mehlburger et al.	:	
Application No. 11/136165	:	DECISION ON PETITION
Filing or 371(c) Date: 05/24/2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 01-1426	:	

This is a decision on the "Petition under 37 C.F.R. § 1.78(a)(3) to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 120," filed November 26, 2007.

The petition is **DISMISSED**

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

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

The petition does not comply with item (1).

With regard to item (1), the supplemental ADS filed with the present petition is improper because it is not signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Before the petition may 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
Director 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 inquiries concerning this decision may be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

COPY MAILED
SEP 26 2008

In re Application of:	: DECISION GRANTING PETITION
Mehlburger et al.	: UNDER 37 CFR 1.78(a)(3)
Application No. 11/136165	:
Filing or 371(c) Date: 05/24/2005	:
Attorney Docket No. 01-1426	:

This is a decision on the "Petition under 37 C.F.R. § 1.78(a)(3) to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 120," filed June 19, 2008.

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 application accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1617 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/136,165	05/24/2005	1617	1130	01-1426	11	1

CONFIRMATION NO. 4763

CORRECTED FILING RECEIPT

28501
MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD, CT 06877-0368

OC000000032143110

Date Mailed: 09/18/2008

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

Applicant(s)

Ludwig Mehlburger, Bingen, GERMANY;
Martin Michel, Amsterdam, NETHERLANDS;
Marion Wienrich, Weiterstadt, GERMANY;
Ursula Ebinger, Boonton Township, NJ;

Assignment For Published Patent Application

Boehringer Ingelheim International GmbH, Ingelheim, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 28501

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP2003/012225 11/03/2003

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02026546 11/27/2002

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 **US 11/136,165**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pharmaceutical composition comprising a beta-3-adrenoceptor agonist and a serotonin and/or norepinephrine reuptake inhibitor

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).

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Alexandria, VA 22313-1450
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KNOBLE YOSHIDA & DUNLEAVY, LLC
Eight Penn Center
Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103

MAILED

JUN 10 2009

OFFICE OF PETITIONS

In re Application of :
Wan Y. Shih, et. al. :
Application No. 11/136,173 : DECISION GRANTING PETITION
Filed: May 23, 2005 :
Attorney Docket No. DREX-1020US :

This is a decision on the petition filed on March 20, 2009, requesting that the above-identified application be accorded a filing date of May 24, 2005, rather than the presently accorded date of May 23, 2005.

Petitioner alleges that the application was deposited in Express Mail Service on May 24, 2005. In support, the petition is accompanied by a copy of Express Mail label No. EL022594646US, which bears a handwritten "date-in" of May 24, 2005 and a USPS receipt date stamp of May 24, 2005. It is noted that the Application Transmittal Letter contained the same Express Mail label number.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. Since the evidence is convincing that the application was in the hands of a U. S. Postal Service employee on May 24, 2005, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for **correction of the filing date to May 24, 2005 and for issuance of a corrected filing receipt.**

Upon receipt of the corrected filing receipt, petitioner may wish to consider filing a request for reconsideration of the Certificate of Correction.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3226. Questions regarding the Certificate of Correction should be addressed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED

DEC 13 2005

OFFICE OF PETITIONS

Applicant: Thor et al.
Appl. No.: 11/136,183
Filing Date: May 24, 2005
Title: METHODS FOR DECREASING DETRUSOR MUSCLE OVERACTIVITY
Attorney Docket No.: 046562/292940
Pub. No.: US 2005/0228049 A1
Pub. Date: October 13, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 25, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error, as the title on the front page of the publication "METHODS FOR DECREASING DETRUSOR MUSCLE OVERACTIVITY" is misprinted as "METHODS FOR DECREASING DETRUSOR."

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

The error noted by requestor wherein the title is misprinted is an Office error but the mistake is a typographical error, which is clearly understandable to one of ordinary skill in reading the specification and the claims. The mistake is a minor typographical error, which is clearly understandable from reading the application, as terms are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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

On July 1, 2005, a Filing Receipt was mailed, which listed the title without the last two words. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

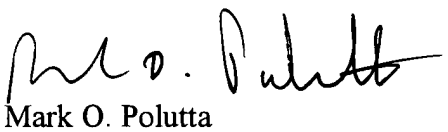
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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

Enclosure: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/136,183	05/24/2005	1614	500	046562/292940	5	14	2

CONFIRMATION NO. 4619

00826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

CORRECTED FILING RECEIPT

OC000000017635373

Date Mailed: 12/12/2005

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)

Karl Bruce Thor, Morrisville, NC;
Edward C. Burgard, Chapel Hill, NC;
Matthew Oliver Fraser, Apex, NC;

Assignment For Published Patent Application

Dynogen Pharmaceuticals, Inc., Waltham, MA

Power of Attorney: The patent practitioners associated with Customer Number **00826**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/741,360 12/19/2003
which claims benefit of 60/435,021 12/20/2002
and claims benefit of 60/486,057 07/10/2003
and claims benefit of 60/525,623 11/26/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/136,183

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods for decreasing detrusor muscle overactivity

Preliminary Class

424

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.

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

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

GRANTED

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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Scott A. Bales	: DECISION ON REQUEST FOR
Patent Number	: 7642936	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,187	: 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 **769** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/136,194	05/24/2005	2859	1000	171153	7	20	3

CONFIRMATION NO. 6171

CORRECTED FILING RECEIPT

OC000000016757556

45436
DEAN D. SMALL (12553 + 1000)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Date Mailed: 08/11/2005

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)

Reed F. Busse, San Mateo, CA;
John M. Pauly, Redwood City, CA;
Greg Zaharchuk, San Francisco, CA;

Power of Attorney: The patent practitioners associated with Customer Number **45436**.

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 US11/136,194

Projected Publication Date: 11/30/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method for generating T1-weighted magnetic resonance images and quantitative T1 maps

Preliminary Class

324

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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

NOT GRANTED

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

UNITED STATES 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
555 W. FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013-1024

COPY MAILED

AUG 1 1 2008

In re Application of	:	
WOLFE, et al.	:	
Application No. 11/136,204	:	DECISION ON PETITION
Filed: May 24, 2005	:	TO WITHDRAW
Attorney Docket No. 1016760034P	:	FROM RECORD
	:	

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 5, 2008.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER, LLP has been revoked by the assignee of the patent application on June 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: RUTAN & TUCKER, LLP.
611 ANTON BOULEVARD, SUITE 1400
COSTA MESA, CA 92626

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14TH FLOOR
ALBANY NY 12207

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Mian, et al. :
Application No. 11/136,207 : DECISION ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. IEMC-0005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 4, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due mailed September 3, 2008. The Notice set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed December 22, 2008.

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

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

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

Alesia M .Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/24/09 Paper No.: ____

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/136207 Patent No.: 7536278B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: The Request for Certificate of Correction filed on 06/17/2009 has been approved.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2863
Art Unit

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OCT 0 1 2009

OFFICE OF PETITIONS

JAMES ANTHONY HRUSCHKA
6800 VISTA DEL NORTE NE # 1828
ALBUQUERQUE NM 87113

In re Application of :
James Anthony Hruschka :
Application No. 11/136,212 : ON PETITION
Filed: May 24, 2005 :
Title: Tissue Ablation Device Using a Lens to Three Dimensionally Focus Electromagnetic Energy :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 14, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed October 29, 2008. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on January 28, 2009. However, by Advisory Action mailed February 24, 2009, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply having been received, the application became abandoned on

January 30, 2009. The Office mailed a Notice of Abandonment on June 12, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3739 for consideration of the RCE, filed September 14, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 16 2008

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

In re Application of :
Lai, et al. : DECISION ON PETITION
Application No.: 11/136,222 :
Filed: May 24, 2005 :
Atty. Dkt. No.: 250122-2550 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 27, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed May 2, 2007. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed March 17, 2008.

Petitioners argue non-receipt of the final Office action mailed May 2, 2007. Petitioners further state that a review of practitioner's records supports the contention of non-receipt and, further, that the final Office action was returned to the USPTO by the postal service.

A review of the record reveals that the final Office action mailed May 2, 2007 was returned to the USPTO as undeliverable on May 7, 2007. There is no indication in the record that effort was made to re-mail the Office action in accordance with MPEP 707.13 wherein it states:

> "Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing

> date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924)."

Therefore, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Group Art Unit 2875 for re-mailing of the Office action. The time period for reply will be set by the newly mailed Office action.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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SEP 19 2008

OFFICE OF PETITIONS

JAMES J. BYRNE, PH.D.
322 ADOLPHUS AVENUE
CLIFFSIDE PARK, NJ 07010

In re Application of
Barry R. Albert
Application No. 11/136,224
Filed: May 24, 2005
Attorney Docket No. 288903-00269-1

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed November 14, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on January 9, 2008, 2008. On April 29, 2008 the present petition was filed, including *inter alia*, a power of attorney and a terminal disclaimer with fee.

The Power Attorney (Power) filed April 29, 2008 is **not** acceptable, since the Power appears to be from an assignee but the person signing the Power failed to provide his title and the name of the company he represents. However, in accordance with 37 CFR 1.34(a), the signature of David C. Jenkins 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. Jenkins 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.

37 CFR 1.137(d) requires that any petition to revive in either a utility or plant application filed before June 8, 1995, be accompanied by a terminal disclaimer and fee as set forth in § 1.321. Since this application is filed *after* June 8, 1995, no terminal disclaimer and fee are required. Accordingly, the terminal disclaimer filed April 29, 2008 is **not** accepted and $130 fee is being refunded in the form of a credited to counsel's credit card.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1]

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 3618 for appropriate action by the Examiner in the normal course of business on the reply received April 29, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID C. JENKINS
ECKERT SEAMANS
600 GRANT STREET 44TH FLOOR
US STEEL TOWER
PITTSBURGH, PA 15219

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Howrey, LLP – CA
c/o IP Docketing Department
2941 Fairview Park Drive, Suite 200
Falls Church, VA 22042-2924

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of :
W. Edward Naugler, Jr. et al. :
Application No. 11/136,230 : DECISION ON PETITION
Filed: May 23, 2005 : TO WITHDRAW
Attorney Docket No. 05149.0004.NPUS00 : FROM RECORD
:

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 Michael J. Bell on behalf of all attorneys/agents associated with customer number 27194. All attorneys/agents associated with customer number 27194 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 address of the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on 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 and a Statement under 37 CFR 3.73(b) must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: W. Edward Naugler, Jr.
2220 Wheaton Trail
Cedar Park, TX 78613

cc: Leadis Technology, Inc.
800 W. California Avenue, Suite 200
Sunnyvale, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/136,230	05/23/2005	W. Edward Naugler JR.	05149.0004.NPUS00

CONFIRMATION NO. 4945

POWER OF ATTORNEY NOTICE

27194
HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 5, 2007

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/136239 patent No.: 7,075,969

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2611
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007.
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. : 7,075,969

APPLICATION NO.: 11/136,239

ISSUE DATE : July 11, 2006

INVENTOR(S) : Zeira et al.

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

ON THE FACE PAGE

At section (56), page 2, right column, line 1, delete "EP 06824719) 11/1995" and insert therefor --EP 0682419 11/1995--.

IN THE SPECIFICATION

At column 1, line 26, after the words "base stations", delete "**301-307**. Each base station **301**" and insert therefor --$\mathbf{30_1}$-$\mathbf{30_7}$. Each base station $\mathbf{30_1}$--.

At column 1, line 27, after "(UEs)", delete "**321-323**" and insert therefor --$\mathbf{32_1}$ - $\mathbf{32_3}$--.

At column 1, line 29, after the word "station", delete "**301** to a UE **321**" and insert therefor --$\mathbf{30_1}$ to a UE $\mathbf{32_1}$--.

At column 1, line 31, before the words "are referred", delete "**321** to a base station **301**" and insert therefor --$\mathbf{32_1}$ to a base station $\mathbf{30_1}$--.

At column 1, line 39, after the word "slots", delete "**361-36n**" and insert therefor --$\mathbf{36_1}$-$\mathbf{36_n}$--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,075,969

APPLICATION NO.: 11/136,239

ISSUE DATE : July 11, 2006

INVENTOR(S) : Zeira 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:

At column 1, line 41, after the word "slots", delete "**361-36n**" and insert therefor --36_1-36_n--.

At column 1, line 43, after the word "slot", delete "**361-36n**" and insert therefor --36_1-36_n--.

At column 1, line 50, after "UE", delete "**321**" and insert therefor --32_1--.

At column 1, line 51, after the word "station", delete "**301**" and insert therefor --30_1--.

At column 1, line 64, after the words "base station", delete "**301** transmits to a UE **321**" and insert therefor --30_1 transmits to a UE 32_1--.

At column 1, line 66, after "UE", delete "**321**" and insert therefor --32_1--.

At column 2, line 5, after the words "base station", delete "**301**" and insert therefor --30_1--.

At column 2, line 10, after the words "base station", delete "**301**" and insert therefor --30_1--.

At column 2, line 12, after "UE", delete "**321**" and insert therefor --32_1--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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.

PTO/SB/44 (04-05)
Approved for use through 04/30/2007.
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. : 7,075,969
APPLICATION NO.: 11/136,239
ISSUE DATE : July 11, 2006
INVENTOR(S) : Zeira 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:

At column 2, line 13, before the word "Based", delete "(SIRTARGET)" and insert therefor --(SIR_{TARGET})--.

At column 2, line 14, before the word "transmits", delete "**301**" and insert therefor --$\mathbf{30_1}$--.

At column 2, line 14, after the word "command", delete "bTPC" and insert therefor --b_{TPC}--.

At column 2, line 15, after "UE", delete "**321**" and insert therefor --$\mathbf{32_1}$--.

At column 6, line 16, after the word "receive", insert --from--.

At column 6, line 34, after the word "updated", delete "at a rate of " and insert therefor --every--.

At column 7, line 31, after the word "setting", delete "a to αzero" and insert therefor --α to zero--.

At column 7, line 62, before the word "set", delete "a" and insert therefor --α--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130-2040

COPY MAILED

SEP 30 2008

OFFICE OF PETITIONS

In re Application of :

CHAKRAVARTY, et al. :
Application No. 11/136,242 : DECISION ON PETITION TO
Filed: May 23, 2005 : WITHDRAW FROM RECORD
Attorney Docket No. 219002028412 :
:

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 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 Kate Murashige 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. 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 March 11, 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: SARVAJIT CHAKRAVARTY
976-2 ALPINE TERRACE
SUNNYVALE, CA 94087

cc: MARK WARFIELD
JOHNSON & JOHNSON
1 JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 108933

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/136,249	05/24/2005	2841	1000	E-MO-00017 (AT 20958-1516	4	20	3

CONFIRMATION NO. 5871

CORRECTED FILING RECEIPT

OC000000016653471

Brian C. Oakes
Tyco Electronics
Suite 140
4550 New Linden Hill Road
Wilmington, DE 19808-2952

Date Mailed: 07/29/2005

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)

William Palmteer, Andover, MA;

Assignment For Published Patent Application

M/A Com, Inc.

Power of Attorney:

Robert Kapalka--34198
Driscoll Nina--34685
Dean Small--34730
Patrick Rasche--37916
Bruce Atkins--43476
Rozell Williams--44403
Evan Sotiriou--46247
Jay Hoette--50666
Lisa Vaccarelli--52470

Domestic Priority data as claimed by applicant

Foreign Applications

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 US11/136,249

Projected Publication Date: 11/30/2006

Non-Publication Request: No

Early Publication Request: No

Title

Surface mount package

Preliminary Class

174

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/05/2010

Applicant	: Sirid-Aimee Kellermann	: DECISION ON REQUEST FOR
Patent Number	: 7625549	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/136,250	: 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 **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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PETER MARTINEZ
P.O. BOX 131313
CARLSBAD, CA 92013-1313

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OCT 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Mathew Randolph Aron :
Application No. 11/136,270 : DECISION ON PETITION
Filed: May 23, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. CV001 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed September 26, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

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

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

The application is being forwarded to the Technology Center Art Unit 3727 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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ROBERT C SHADDOX
WINSTEAD SECHREST & MINICK PC
PO BOX 50784
DALLAS TX 75201

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Faver, et al. :
Application No. 11/136,286 : DECISION GRANTING
Filed: May 24, 2005 : PETITION
Attorney Docket No. 42797-P001US :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 10, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to submit a complete reply to the Notice to File Missing Parts, mailed June 27, 2005. This Notice set an extendable period for reply of two (2) months for applicants to submit an oath or declaration, the surcharge for its late filing, a substitute specification, replacement drawings, replacement claims, and an abstract. On October 17, 2005, applicants filed an executed declaration, together with the surcharge for its late filing, made timely by obtaining a two month extension of time. On October 24, 2005, the Office mailed a Notice of Incomplete Reply, stating that the period for reply would continue to run from the mailing date of the Notice to File Missing Parts. No further reply having been received, the application became abandoned on October 28, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay, and submitted the missing items as required by the Notice to File Missing Parts.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/136,292	05/24/2005	David E. Knox	300151-41162

CONFIRMATION NO.
4649

THOMPSON HINE L.L.P.
P.O. BOX 8801
DAYTON OH 45401-8801

Date Mailed: November 21, 2006

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.

4. ☐ Petition fee was not paid.

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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CENTRAL COAST PATENT AGENCY, INC.
3 HANGAR WAY SUITE D
WATSONVILLE, CA 95076

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of :
Julius GORYAVSKY :
Application No. 11/136,320 : DECISION ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. P1450D1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 11, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 12, 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) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received April 22, 2008.

Thurman K. Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11136320 Total Records Found: 4

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/23/2008	00003278	4	2453	$770.00	04/22/2008	DA 500534
05/26/2005	00000243	1	2011	$150.00	05/23/2005	CK
05/26/2005	00000244	1	2111	$250.00	05/23/2005	CK
05/26/2005	00000245	1	2311	$100.00	05/23/2005	CK

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional): P1450D1

First named inventor: Julius Goryavsky

Application No.: 11/136,320 — Art Unit: 2616

Filed: 05/23/2005 — Examiner: Anh Vu H. Ly

Title: Distribution of Identifiers in Serverless Networks

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

/Donald R. Boys/	04/22/2008
Signature	Date
Donald R. Boys	35,074
Typed or printed name	Registration Number, if applicable
3 Hangar Way, Suite D	831-768-1755
Address	Telephone Number
Watsonville, CA 95076	
Address	

Enclosures:
☐ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

04/22/2008	Sheri Beasley
Date	Signature
	Sheri Beasely
	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Chul Sang Shin	: DECISION ON REQUEST FOR
Patent Number	: 7646461	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,321	: 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 **803** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Foley Hoag, LLP
Patent Group
World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :

Ergin Atalar et al. :
Application No. 11/136,329 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. SUW-009.02 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Scott E. Kamholz on behalf of all attorneys of record who are associated with Customer No. 25181.

All attorneys/agents associated with the Customer No. 25181 have been withdrawn.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Ergin Atalar**
5206 Wood Stove Lane
Columbia, MD 21045

cc: **Advanced Bionics Corporation**
25129 Rye Canyon Road
Valencia, CA 91355

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, NC 27627

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APR 14 2008

OFFICE OF PETITIONS

In re Application of
Ergin ATALAR, et al
Application No. 11/136,329
Filed: May 24, 2005
Attorney Docket No. 9450.11DV

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 February 15, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bryant R. Gold and Laura Haburay Bishop do not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address 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: BRYANT R. GOLD
& LAURA HABURAY BISHOP
25129 RYE CANYON LOOP
VALENCIA, CA 91355

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Lon E. Bell	: DECISION ON REQUEST FOR
Patent Number	: 7587902	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,334	: 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 **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED
SEP 12 2006
OFFICE OF PETITIONS

In re Application of :
Turner et al. :
Application No. 11/136,348 :
Filed: May 24, 2005 :
Attorney Docket No. TI-38694 :

DECISION ON PETITION

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

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on November 16, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on February 17, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment and paid the requisite fees. However, 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 this paragraph was unintentional" be submitted. The statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition. The petition under 37 CFR 1.137(b) is **granted.**

The issue and publication fees totalling $1,700.00 will be charge to the Deposit Account as authorized.

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries specifically 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

Enclosure: Notice of Draftsperson's Patent Drawing Review

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-3-07 Paper No.: _____

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No. 7255290 B2 / 11/136349

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**.

Should Assignee be deleted? Need a reply ASAP
J Franks

E M James
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

Kevin P Shaver
SPE

3752
Art Unit

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Andrew Y. Schroeder
Suite 222
500 S. Broadway
Santa Maria CA 93454

NOV 0 8 2005

In re Application of:
ALBERT MURILLO
Serial No.: 11/136,352
Filed: May 23, 2005
TITLE: SYSTEM & APPARATUS FOR INSPECTION OF FEET

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 01, 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 applicants are sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the applicant, Albert Murillo, stating that the he is sixty-five (65) years of age or more, and a copy of the applicant's California drivers license.

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 E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NOV 10 2009

OFFICE OF PETITIONS

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

In re Application of :
Teiji Kimura :
Application No. 11/136,355 : ON APPLICATION FOR
Filed: May 25, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 0152-0709PUS1 :

This is in response to the "REQUEST FOR RECONSIDERATION PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed August 21, 2009. Applicant submits that the patent term adjustment to be indicated on the patent is seven hundred ninety-two (792) days, not five hundred forty-five (545) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office 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 March 20, 2009.

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Teigi Kimura	: DECISION ON REQUEST FOR
Patent Number	: 7667041	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **782** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/17/2010

Applicant : Teigi Kimura
Patent Number : 7667041
Issue Date : 02/23/2010
Application No: 11/136,355
Filed : 05/25/2005

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

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

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

The patent term adjustment has been determined to be **853** 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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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Tagami :
Application No. 11/136,372 :
Filed: May 25, 2005 :
Attorney Docket No. 273010US2/ehw :

ON PETITION

This is a decision on the correspondence entitled, "REQUEST TO CORRECT TITLE OF INVENTION", filed October 2, 2006. The petition will be treated under 37 CFR 1.181.

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

Please find enclosed a corrected filing receipt, showing the correct title of the invention.

After the mailing of this decision, the application will be forwarded to Publications Division for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosure: 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
11/136,372	05/25/2005	2627	1610	273010US2	21	3

CONFIRMATION NO. 5277

CORRECTED FILING RECEIPT

22850
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000023182336

Date Mailed: 03/30/2007

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)

Katsumichi Tagami, Tokyo, JAPAN;

Assignment For Published Patent Application

TDK Corporation, Tokyo, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number **22850**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2004-283368 09/29/2004

If Required, Foreign Filing License Granted: 09/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/136,372

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MAGNETIC RECORDING AND REPRODUCING APPARATUS WITH TRAPEZOIDAL WRITE POLE TIP TO AVOID OVERWRITING ADJACENT TRACKS

Preliminary Class

360

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Toshimichi Nishizawa :
Application No. 11/136381 : DECISION ON PETITION
Filed: 05/25/2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NISHIZAWA :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed November 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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 Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2861 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/136,381	05/25/2005	1791	800	NISHIZAWA	6	1

CONFIRMATION NO. 5272

CORRECTED FILING RECEIPT

23294
JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON, VA 22202

Date Mailed: 03/27/2008

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)

Toshimichi Nishizawa, Kanagawa, JAPAN;

Assignment For Published Patent Application

Sanjo Sieki Co., Ltd., Kawaguchi-shi, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 23294

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP2003/014990 11/25/2003

Foreign Applications

JAPAN 341899/2002 11/26/2002

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 11/136,381**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

INJECTION MOLDING MACHINE

Preliminary Class

425

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/136,385	05/25/2005	Takashi Otsuji	029471-0182	5104

22428 7590 03/12/2010

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

EXAMINER	
DEWS, BROOKE J	
ART UNIT	**PAPER NUMBER**
2181	

MAIL DATE	DELIVERY MODE
03/12/2010	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of: T. OTSUJI
Application No. 11/136,385
Filed: May 25, 2005
For: INTERRUPT GENERATION CIRCUIT FOR INTERMEDIATE RESPONSE TO EDGE DETECTION SIGNAL, WHEN COUNT VALUE OF MAIN TIMER IS LESS THAN PRE-STORED VALUE

DECISION ON PETITION

This is a decision on the petition filed on February 23, 2010, under 37 CFR 1.313(a) requesting that (1) the Office withdraw the above-identified application from issue, and (2) cancel the Examiner's Amendment mailed on November 24, 2009, and (3) issue a Supplemental Notice of Allowance resetting the statutory period for payment of issue fee, on the grounds that said Examiner's Amendment was not authorized by Applicants.

A review of the prosecution history in the above-identified application, and the Notice of Allowance with Examiner's Amendment mailed on November 24, 2009, provided no record of an authorization by the applicant for the above-mentioned examiner's amendment, as required by MPEP 1302.04.

Therefore, Petition is **GRANTED.**

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b)(1).

The Notice of Allowance, including the above-mentioned Examiner's amendment, mailed on November 24, 2009, is hereby withdrawn and vacated. The Office Action has been closed from public view as of mailing of this decision.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon request.

This request and any balance due must be received on or before the due date noted in the **new Notice of Allowance** in order to prevent abandonment of this application.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

NRR:mp

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

COPY MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Yasushi Hiroshima	:	DECISION ON PETITION
Application No. 11/136,389	:	TO WITHDRAW
Filed: May 25, 2005	:	FROM RECORD
Attorney Docket No. 126529	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 23, 2005.

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

A review of the file record indicates that the power of attorney to practitioners associated with Banner & Witcoff, LTD., has been revoked by the assignee of the patent application on April 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

WILLIAMS MULLEN
222 CENTRAL PARK AVENUE
SUITE 1700
VIRGINIA BEACH VA 23462

COPY MAILED
DEC 16 2008

In re Application of :
Ramsay, et al. :
Application No. 11/136,406 : DECISION ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. GTI-0010 :

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 June 4, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed March 3, 2008. Notice of Abandonment was mailed June 26, 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 and the publication fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 03, 2007

TO SPE OF : ART UNIT 2125 11/136411

SUBJECT : Request for Certificate of Correction on Patent No.: 7130713 B2

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

Please complete this form and return with file, within **7** days to:
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.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

L. P. P.

SPE 2125 **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

JJGJR.: 02-06

Paper No: __

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

COPY MAILED

FEB 10 2006

OFFICE OF PETITIONS

In re Application of :
Gravelle, et al. :
Application No. 11/136,437 : ON PETITION
Filed: 25 May, 2005 :
Attorney Docket No. 114944-00152 :

This is a decision on the petition filed on 24 October, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 25 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 22 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 24 October, 2005, Petitioner Michael C. Greenbaum (Reg. No. 28,419) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventor Kelly Gravelle (Mr. Gravelle)–notably, address data was corrected but not initialed/dated by the inventor–for himself and on behalf of non-signing co-inventor Frances E. Lindsay, Jr. (Mr. Lindsay), and Petitioner makes no statement that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Ms. McDonald (a TransCore employee sent the oath/declaration and assignment and itemized only those documents as those transmitted), moreover, the declaration of Ms. Paula Stiles and the transmittal letters refer only to oath/declaration and assignment documents sent to Mr. Lindsay.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 07-06

Paper No: __

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Gravelle, et al. :
Application No. 11/136,437 : ON PETITION
Filed: 25 May, 2005 :
Attorney Docket No. 114944-00152 :

This is a decision on the petition filed on 24 October, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 25 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 22 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 24 October, 2005, Petitioner Michael C. Greenbaum (Reg. No. 28,419) filed, *inter alia*, the original petition, an oath/declaration signed by co-inventor Kelly Gravelle (Mr. Gravelle)–notably, address data was corrected but not initialed/dated by the inventor–for himself and on behalf of non-signing co-inventor Frances E. Lindsay, Jr. (Mr. Lindsay), and Petitioner makes no statement that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Ms. McDonald (a TransCore employee sent the oath/declaration and assignment and itemized only those documents as those transmitted), moreover, the declaration of Ms. Paula Stiles and the transmittal

letters referred only to oath/declaration and assignment documents sent to Mr. Lindsay, and so the petition was dismissed on 10 February, 2006;

- the instant petition, filed with, *inter alia*, request and fee for extension of time and supporting document, seeks to overcome those deficiencies..

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]

---

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

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

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

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

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

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

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

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

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

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

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

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

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

---

[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.: 07-06

Paper No: __

FRANCES E. LINDSAY, JR.
1170082 MICHAEL UNIT
P.O. BOX 4500
TENNESSEE COLONY, TX 75886-4500

COPY MAILED

AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Gravelle, et al. :
Application No. 11/136,437 : COMMUNICATION
Filed: 25 May, 2005 :
Attorney Docket No. 114944-00152 :

Dear Frances E. Lindsay, Jr.:

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,

---

[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:
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

---

[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

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MORGAN LEWIS & BOCKIUS L.L.P.
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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AUG 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Sato et al.	:	
Application No. 11/136,443	:	DECISION ON PETITION
Filed: May 25, 2005	:	
Attorney Docket No. 046601-5155	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 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 November 16, 2007, as required by the Notice of Allowance and Fee(s) Due mailed August 16, 2007. Accordingly, the date of abandonment of this application is November 17, 2007. A Notice of Abandonment was mailed December 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/136,446	05/25/2005	Kazuhiro Ichimoto	124073	5814

7590 10/31/2007

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

EXAMINER	
NGUYEN, TU MINH	

ART UNIT	PAPER NUMBER
3748	

MAIL DATE	DELIVERY MODE
10/31/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Replin Ref: 11/01/2007 KKING1
DA#:150461 Name/Number:11136446 00015350200
FC: 9204 $700.00 CR

Adjustment date: 11/01/2007 KKING1
05/26/2005 STEUMEL1 00000052 11136446
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Toshihiko Matsunaga	: DECISION ON REQUEST FOR
Patent Number	: 7602803	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,448	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

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JUN 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,602,803	:	DECISION ON REQUEST
Matsunaga et al.	:	FOR RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/136,448	:	and
Filed: May 25, 2005	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 31869-218596	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twelve (712) days. The petition was timely filed within one month of the mailing of a Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed April 21, 2010. As required by the April 21, 2010 decision, deposit account no. 22-0261 will be charged the required $200.00 fee under 37 CFR 1.18(e).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twelve (712) days is **GRANTED**.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twelve (712)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,602,803 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Matsunaga 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 1015 days

Delete the phrase "by 1015 days" and insert – by 712 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
Kyoung H. CHIN et al. :
Application No. 11/136,469 : DECISION ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. SEC.910D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 06, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of July 06, 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 file is being referred to Technology Center AU 1792 for appropriate action on the concurrently filed amendment.

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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Shiloh et al.
C/O INTELLEVATE , LLC
P.O BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Yona Perets	: DECISION ON REQUEST FOR
Patent Number	: 7574214	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,476	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1085** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Date Mailed : 05/07/08

Patent No. : 7173728 B2
Patent Issued : 02/06/07
Docket No. : **03500.015500.1**

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.

Respecting the alleged errors in the documents filed on 11/28/07; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

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

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 19, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/136477 Patent No.: 7173728 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 Director's/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: Request for Cert of Corr includes substantive changes to claim language/scope.

2625

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/15/07

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/136499** No.: **7016642**

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**.

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 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** nc	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Judy Nguyen

JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

_____ 2854
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Christopher S. Davis	: DECISION ON REQUEST FOR
Patent Number	: 7624307	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **908** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/27/08

Paper No.: —

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/136516 Patent No: 7218434 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

JP
5/30/08

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

Comments: _____

Stephone B. Allen
~~Supervisory Patent Examiner~~

Stephone B. Allen

SPE 2872 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FLESHNER & KIM LLP
PO BOX 221200
CHANTILLY VA 20153

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Ramsay, et al. :
Application No. 11/136,526 : DECISION ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. GTI-0012 :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.17(f)", filed August 17, 2005, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of May 25, 2005, with Figure 1 of the drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on May 25, 2005. However, on June 27, 2005, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, Figure 1 of the drawings appeared to have been omitted.

In response, applicants filed the instant petition. Accompanying the petition was a copy of the drawings as originally submitted, including Figure 1. Applicants maintain that the application as originally filed included Figure 1. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Formal Drawings - 3 Sets of 14 Sheets each" as enclosed, bearing a United States Patent and Trademark Office date-stamp of May 25, 2005, and lacking any notation of non-receipt of any item listed.

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

Given the basis for granting the petition, the $400 petition fee has been refunded to Deposit Account No. 16-0607.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of May 25, 2005, using the application papers received in the Office on that date and Figure 1 of the drawings as resupplied on petition filed August 17, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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JUL 24 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Rene A. Vazquez
8270 Greensboro Drive, Suite 700
McLean, VA 22102

In re Application of	:	
Zhengyou Zhang *et al.*	:	
Serial No.: 11/136,526	:	DECISION ON PETITION
Filed: May 25, 2005	:	*ACCEPTANCE OF COLOR DRAWINGS*
For: SYSTEM AND METHOD FOR IDENTIFYING	:	
OBJECTS OF INTEREST IN IMAGE DATA	:	

This is a decision on the petition under 37 CFR §1.84(a)(2) filed May 25, 2005 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 6A, 6B, 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, 8I, 8J, 8K, 8L, 8M, 8N, 9A, 9B, 10A, 10B, 11A, 11B, 12A and 12B 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 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**.

Henri A. Wirth for
Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of :
Yezhuvath et al. :
Application No. 11/136,553 :
Filed: May 25, 2005 :
Attorney Docket No. 58005.1500 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 11, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

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NOV 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Yezhuvath et al.	:	DECISION ON PETITION
Application No. 11/136,553	:	TO WITHDRAW
Filed: May 25, 2005	:	FROM RECORD
Attorney Docket No. 58005.1500	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on October 8, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted herein still cannot be approved.

Petitioner should note that the Office will only accept correspondence address changes to the most current address information provided the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, **or**, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.***

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Office action mailed June 8, 2009 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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WASHINGTON, DC 20036-5304

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DEC 3 1 2009

OFFICE OF PETITIONS

In re Application of
Yezhuvath et al.
Application No. 11/136,553
Filed: May 25, 2005
Attorney Docket 58005.1500

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 December 3, 2009.

The request is **APPROVED**.

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

The request was signed by Adam M. Treiber, on behalf of all practitioners of record who are associated with Customer Number 30734.

All attorneys/agents associated with the Customer Number 30734 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed June 8, 2009 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: SUBEX SYSTEMS LIMITED
721 7TH MAIN, MAHALAXMI LAYOUT
BANGALORE 560 086 INDIA

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
11/136,553	05/25/2005	Sudeesh Yezhuvath	

CONFIRMATION NO. 5910

POWER OF ATTORNEY NOTICE

30734
BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

OC00000039420761

Date Mailed: 12/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/03/2009.

- 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.

/atkelley/

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

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BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW EVERGREEN PARKWAY, SUITE 250
BEAVERTON, OR 97006

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Huang et al. :
Application No. 11/136,558 : DECISION ON PETITION
Filed: May 25, 2005 :
Attorney Dkt No.: BHT-3167-289 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper reply to a non-final Office Action mailed July 6, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 28, 2006. A Notice of Abandonment was mailed on March 5, 2007.

This petition is hereby **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, declaration, abstract, application data sheet, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2174 for appropriate action by the Examiner in the normal course of business on the reply received

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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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/136,558	05/25/2005	Kuo-Ching Huang	BHT-3167-289

CONFIRMATION NO. 5915

43831
BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
BEAVERTON, OR 97006

POA ACCEPTANCE LETTER

OC00000029036043

Date Mailed: 03/24/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/16/2007.

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.

/crgrant/

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

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

Mail Date: 04/21/2010

Applicant	: Kuo-Ching Huang	: DECISION ON REQUEST FOR
Patent Number	: 7619166	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,558	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **420** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Yoshitaka Aiba et al	:	
Application No. 11/136,563	:	DECISION GRANTING PETITION
Filed: May 25, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 052625	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 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 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

Mail Date: 04/21/2010

Applicant	: Tadamitsu Sato	: DECISION ON REQUEST FOR
Patent Number	: 7593001	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,579	: 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 **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Tadamitsu Sato	:	DECISION ON REQUEST
Patent Number: 7,593,001	:	FOR RECONSIDERATION OF
Issue Date: 09/22/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/136579	:	and
Filing or 371(c) Date: 05/23/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 9281-5077	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 23, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty-eight (758) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty-eight (758) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on May 23, 2008, and ends on December 17, 2008, the day before the RCE was filed, and is 208 (not 209) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 757, not 758 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred fifty-seven (757) 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 : 7,593,001 B2

DATED : **September 22, 2009**

INVENTOR(S) : Sato

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 549 days.

Delete the phrase "by 549 days" and insert – by 757 days--

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2030 MAIN STREET, SUITE 1300
IRVINE, CA 92614

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AUG 1 2 2008

OFFICE OF PETITIONS

In re Application of :

KHAZANI, et al. :
Application No. 11/136,594 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. AGH.P001 : FROM RECORD
:

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 NOT APPROVED.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request "attorney is moving to S. Korea..." 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: SIMON KHAZANI (AMERICAN CONDENSER)
1628 WEST 139TH STREET
GARDENA, CA 90249

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/136,606	05/23/2005	Antonio Fincato	66917-00006USPX

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS TX 75202

DATE MAILED: March 26, 2007

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

This is in response to the petition under 37 CFR 1.138(d) filed March 21, 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

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ROBERT KREBS
NIXON PEABODY LLP
200 PAGE MILL ROAD
SUITE 200
PALO ALTO, CA 94306

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JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Earl W. McCune Jr.	:	DECISION ON PETITION
Application No. 11/136,607	:	TO WITHDRAW
Filed: May 23, 2005	:	FROM RECORD
Attorney Docket No. 069804-0184	:	

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 12, 2005.

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

A review of the file record indicates that all previous powers of attorney were revoked by the assignee of the patent application on October 21, 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: MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

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600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

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OFFICE OF PETITIONS

In re Application of :
DODSON, et al. :
Application No. 11/136,614 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. **VLLI:002US** : FROM RECORD
:

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 17, 2007.

The request is **APPROVED.**

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

The request was signed by Michael Barrett 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: **JOH R. DODSON**
1903 DIAMOND RIDGE DRIVE
LAMPASAS, TX 76550

cc: **ROGER C. KNAPP, ESQ**
SLATER & MATSIL, LLP
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252-5793

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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OFFICE OF PETITIONS

In re Application of
William L. Matier, et al.
Application No. 11/136,625
Filed: March 25, 2005
Attorney Docket No. OTPH-0058

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 December 4, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

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OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 11/136,630 :
Filed: May 24, 2005 :
Attorney Docket No. 1008 090 301 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 May 31, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: BIOPHAN TECHNOLOGIES, INC.
15 SCHOEN PLACE
PITTSFORD, NY 14534

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Hyeong-Suk Yoo	: DECISION ON REQUEST FOR
Patent Number	: 7607791	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,634	: 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 **493** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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FEB 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Lai :
Application No. 11/136,676 : ON PETITION
Filed: May 24, 2005 :
Attorney Docket No. PUSA050472 :
(20050696.ORI)

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2006 (certificate of mailing date September 27, 2006) to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed April 20, 2006. Accordingly, this application became abandoned on July 21, 2006. A Notice of Abandonment was mailed on August 24, 2006.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the April 20, 2006 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Mark Grayson	: DECISION ON REQUEST FOR
Patent Number	: 7657262	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,686	: 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 **1289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Emery L. Tracy
P.O. Box 1518
Boulder CO 80306

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SEP 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Harrison :
Application No. 11/136,689 : ON PETITION
Filed: May 23, 2005 :
Attorney Docket No. N/A :
For: KEVIN SYSTEM

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2006, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed June 17, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on August 18, 2005. A Notice of Abandonment was mailed on February 23, 2006.

Applicant has submitted a proper reply to the June 17, 2005 Notice in the form of an abstract, an acceptable statement of the unintentional nature of the delay in responding to the July 17, 2005 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Emery L. Tracy
P.O. Box 1518
Boulder, CO 80306

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OFFICE OF PETITIONS

In re Application of Harrison :
Application No. 11/136,689 : Decision on Petition
Filing Date: May 23, 2005 :
For: Kevin System :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed June 17, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on August 18, 2005. A Notice of Abandonment was mailed on February 23, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed of the instant decision and will continue taking steps to prepare the application for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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JUL 20 2005

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston IL 60201

In re Application of :
Joe Baumchen :
Serial No.: 11/136,691 : DECISION ON PETITION
Filed: May 24, 2005 :
For: Protective Under Garment :

This is in response to applicants' petition filed May 24, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

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

Frederick R. Schmidt, Director
Technology Center 3700

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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	:	
Stefan Dietrich et al.	:	
Application No. 11/136,712	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. 543822015200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on July 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Eschweiler & Associates LLC**
National City Bank Building
Cleveland, OH 44114

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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 :
BUCKSCH, Thorsten :
Application No. 11/136,714 : DECISION ON PETITION
Filed: May 25, 2005 : TO WITHDRAW
Attorney Docket No. **QIM 2004 P 51061 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 2, 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 June 22, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SLATER & MATSIL LLP**
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/136,720	05/25/2005	Masahiro Yamada	008312-0316185	4721

7590 10/08/2009

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
CHOW, VAN NGUYEN	
ART UNIT	PAPER NUMBER
2627	
MAIL DATE	DELIVERY MODE
10/08/2009	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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 10/08/2009 NFARRER
07721/2005 JADD01 00000005 033975 11136720
02 FC:1111 500.00 CR

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LENOVO (UNITED STATES) INC.
c/o Sawyer Law Group LLP
P.O. BOX 51418
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
Carvis et al. :
Application No. 11/136,740 : ON PETITION
Filed: 05/24/2005 :
Attorney Docket No. 3453P :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.59(b) TO EXPUNGE INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION (M.P.E.P. § 724.05, II, 7th Ed.)," filed April 11, 2008.

Applicant requests that the information submitted on April 10, 2008, entitled Amendment after Non- Final Rejection, Claims and Applicant Arguments/Remarks Made in an Amendment, be replaced and returned because it was unintentionally submitted.

A review of the Image File Wrapper and PAIR reveal that the unintended papers have been "closed" in the Image File Wrapper software-viewing program for Application No. 11/136,740. It appears that the documents were inadvertently submitted in this application but were intended for another application. The Office will not return these papers because it is the Office's policy not to remove papers from files that have been scanned. Rather, the papers will remain "closed" from viewing in the Image File Wrapper.

Accordingly, the petition is dismissed as moot. As no petition is required, the $200.00 petition fee will be refunded to the credit card.

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

11-7-08

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,428,774 B2
Inventor(s) : Matthew Thomas, et. al.
Issued : September 30, 2008
For: BAFFLE FOR AN AUTOMOTIVE VEHICLE AND METHOD OF USE THEREFOR
Docket No: 1001-203

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.322.

On the title page, item [56], references cited, the change cannot be made because it is printed in accordance with the record, per say examiner.

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

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Dobrusin & Thennisch PC
29 W. Lawrence Street, Suite 210
Pontiac, MI 48342

ej

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 06/01/2010

Applicant	: Michael E. Mehrer	: DECISION ON REQUEST FOR
Patent Number	: 7622821	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/136,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **614** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

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OFFICE OF PETITIONS

In re Application of	:	
Robert Andrew McGill et al	:	
Application No. 11/136,763	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 84686-US2	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed October 3, 2005, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

Petitioner's submission fails to meet the criteria set with respect to countering terrorism in MPEP § 708.02(XI). The specification and claims as originally filed indicate the invention relates to microelectro-mechanical devices. The claimed invention does not materially contribute to countering terrorism. Further steps would be required to actually offset or nullify terrorism. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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 2856 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
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/136,774	05/25/2005	Charles J. Inzinna, Jr.	CJI-835

CONFIRMATION NO.
6234

ROBERT D. GUNDERMAN, JR.
PATENT TECHNOLOGIES, LLC
150 LUCIUS GORDON DRIVE, SUITE 205
WEST HENRIETTA NY 14586

Date Mailed: November 30, 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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LANNY R. LEE
STE. 324
1358 HOOPER
TOMS RIVER, NJ 08753-2882

COPY MAILED

JAN 11 2007

OFFICE OF PETITIONS

In re Application of :
Lanny R. Lee :
Application No. 11/136,784 : DECISION ON PETITIONS
Filed: July 28, 2005 : TO MAKE SPECIAL
Attorney Docket No. :
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 20, 2005, to make the above-identified application special based on applicant's age as set forth in MPEP §708.02, Section IV. This is also a decision on the petition under 37 CFR 1.102(c)(2)(i), filed June 20, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition under 37 CFR 1.102(c)(1) 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 Lanny R. Lee's driver license and passport showing that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

The petition under 37 CFR 1.102(c)(2)(i) 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 present invention does not provide any factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basis-life

sustaining natural elements." The contribution of petitioner's invention does not rise to the level intended by the Rule.

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 3771 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Michael Kounavis	: DECISION ON REQUEST FOR
Patent Number	: 7590930	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,798	: 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 **844** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paul K. Legaard
ISIS PHARMACEUTICALS, INC
1896 Rutherford Road
Carlbad, CA 92008

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
DEAN, et al. :
Application No. 11/136,815 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. HTS-0034US : FROM RECORD
:

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.

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

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JUN 11 2008

OFFICE OF PETITIONS

In re Patent No. 7,231,347	:	
ZAKARAUSKAS	:	
Issue Date: June 12, 2007	:	LETTER REGARDING
Application No. 11/136,829	:	PATENT TERM ADJUSTMENT
Filed: May 24, 2005	:	
Atty Docket No. 11336/1013	:	
(P99084USC)	:	

This letter is in response to the "NOTICE OF POSSIBLE PTA ERROR," filed June 21, 2007. Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On June 12, 2007, the above-identified application matured into U.S. Patent No. 7,231,347, with a revised patent term adjustment of 17 days. On June 21, 2007, patentee submitted the instant comment. Patentee states no basis for the request for review of the patent term adjustment.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for Patentee's delay was correct. Patentee does not state a basis for their disagreement with the according of 17 days of PTA. A copy of the PAIR calculations for this application is enclosed. Patentee continues to be under a duty to advise the Office of any error in according too much PTA.

The Office notes that it continues to determine the PTA regardless of whether a terminal disclaimer is submitted. The

front of the patent states the following: "Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by ____ days." Patentees must determine whether the submission of the terminal disclaimer will prevent patentees from enforcing the PTA days awarded.

In view thereof, the revised Patent Term Adjustment remains 17 days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

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

Enclosure: PAIR screen for U.S. Application No. 11/136,829

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11/136,829 ACOUSTIC SIGNAL ENHANCEMENT SYSTEM

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Patent Term Adjustment

Filing or 371(c) Date:	05-24-2005	USPTO Delay (PTO)
Issue Date of Patent:	06-12-2007	Three Years:
Pre-Issue Petitions (days):	+0	Applicant Delay (AF
Post-Issue Petitions (days):	+0	Total Patent Term A
USPTO Adjustment (days):	+0	Explanation Of Calc

Patent Term Adjustment History

Date	Contents Description
06-12-2007	Patent Issue Date Used in PTA Calculation
05-03-2007	Dispatch to FDC
05-03-2007	Application Is Considered Ready for Issue
05-02-2007	Issue Fee Payment Verified
05-02-2007	Issue Fee Payment Received
02-08-2007	Mail Notice of Allowance
02-06-2007	Notice of Allowance Data Verification Completed
11-21-2006	Paralegal TD Accepted
11-09-2006	Terminal Disclaimer Filed
11-19-2006	Date Forwarded to Examiner
11-10-2006	Response after Non-Final Action
08-10-2006	Mail Non-Final Rejection
08-07-2006	Non-Final Rejection
12-05-2005	Information Disclosure Statement considered
07-27-2005	Information Disclosure Statement considered
06-07-2006	Case Docketed to Examiner in GAU
06-05-2006	Request for Classification Division Decision
05-08-2006	Transfer Inquiry to GAU
04-06-2006	Case Docketed to Examiner in GAU
12-10-2005	IFW TSS Processing by Tech Center Complete
12-05-2005	Reference capture on IDS
12-05-2005	Information Disclosure Statement (IDS) Filed
07-27-2005	Reference capture on IDS

07-27-2005	Information Disclosure Statement (IDS) Filed
05-24-2005	Request for Foreign Priority (Priority Papers May Be Included)
06-27-2005	Application Return from OIPE
06-28-2005	Application Is Now Complete
06-27-2005	Application Return TO OIPE
06-27-2005	Application Return from OIPE
06-28-2005	Application Is Now Complete
06-27-2005	Application Return TO OIPE
06-24-2005	Application Dispatched from OIPE
06-27-2005	Application Is Now Complete
06-10-2005	Cleared by L&R (LARS)
06-10-2005	Referred to Level 2 (LARS) by OIPE CSR
06-07-2005	IFW Scan & PACR Auto Security Review
05-24-2005	Initial Exam Team nn

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OFFICE OF PETITIONS

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

In re Application of	:	
Jong Won Moon	:	
Patent Number: 7,524,099	:	
Issue Date: 04/28/2009	:	
Application No. 11/136830	:	ON REQUEST FOR
Filing or 371(c) Date: 05/25/2005	:	RECONSIDERATION OF
Attorney Docket Number: 12580-4165	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed June 24, 2009. Patentee requests that the determination of patent term adjustment be corrected from 674 days to 1008 days. Patentees request this correction solely on the basis that the Office took in excess of three years to issue this patent. The request for reconsideration of petition is properly treated under 37 CFR 1.705(d).

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

On April 28, 2009, the above-identified application matured into U.S. Patent No. 7,524,099 with a patent term adjustment of 674 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 assert that the total patent term adjustment pursuant to 37 CFR §1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by the delays pursuant to 37 C.F.R. § 1.704. Patentees provide that the period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) is 674 days, and the period of adjustment pursuant to 37 C.F.R. § 1.703(b) is 334 days. Thus, patentees calculate the patent term adjustment should be at least 1008 days (674 days + 334 days).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on April 28, 2009, the application was pending three years and 338 days after its filing date (May 26, 2008 to April 28, 2009). The

Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 674 days is correct. At issue is whether patentees should accrue 338 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 674 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that period of 338 days of over three year delay overlaps with the period of 674 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, May 25, 2005, to the date the patent issued on April

---

[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).

28, 2009. Prior to the issuance of the patent, 674 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 338 days of over three year delay overlap with the 674 days of Office examination delay. During that time, the issuance of the patent was delayed by 674 days, not 338 days + 674 days. The Office took 14 months and 674 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 674 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 338 days after its filing date. However, the Office did not delay 338 days and also delay an additional 674 days. Accordingly, 674 days of patent term adjustment was properly entered because the period of delay of 338 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 674 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 required $200.00 patent term adjustment application fee has been charged to Deposit Account No. 23-1925 as authorized.

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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SHIMOKAJI & ASSOCIATES, P.C.
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IRVINE CA 92618

In re Application of
ICHIKAWA, OSAMU, et al.
Application No. 11/136,831
Filed: May 25, 2005
Attorney Docket No. JP92004005US1

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed September 23, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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

Mail Date: 04/21/2010

Applicant	: Osamu Ichikawa	: DECISION ON REQUEST FOR
Patent Number	: 7599836	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,831	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 05/20/2010

Applicant	: John D. Ah Sue	: DECISION ON REQUEST FOR
Patent Number	: 7620051	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/136,835	: 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 **973** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SEP 2 8 2006

OFFICE OF PETITIONS

ROBERT E. KREBS
THELEN REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE CA 95164-0640

In re Application of :
Nayak, et al. :
Application No. 11/136,836 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. 036263-000700 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 21, 2006.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mr. Mark Spolyar, Esq.
Spolyar Technology law Group
2200 Cesar Chavez Street
San Francisco, CA 94124

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United States Patent and Trademark Office
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Valeo Climate Control Corp.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills MI 48326

COPY MAILED

AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Vincent Philippe et al	:	
Application No. 11/136,844	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. TFR0340	:	FROM RECORD
	:	

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: Liniak, Berenato, Longacre & White
6550 Rock Spring Drive, Ste. 240
Bethesda, Maryland 20817

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WORKMAN NYDEGGER
60 E. SOUTH TEMPLE
SUITE 1000
SALT LAKE CITY, UT 84111

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
John N. McMahon, et al.	:	
Application No. 11/136,860	:	DECISION ON PETITION
Filed: May 24, 2005	:	TO WITHDRAW
Attorney Docket No. 4.25P	:	FROM RECORD
	:	

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 5, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Workman Nydegger has been revoked by the assignee of the patent application on April 18, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LIAM MCGEOWN, ACQUIS, INC.
149 COMMONWEALTH DRIVE
MENLO PARK, CA 94301

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 0 7 2007

OFFICE OF PETITIONS

CHAD WALSH
FOUNTAINHEAD LAW GROUP, PC
900 LAFAYETTE STREET
SUITE 509
SANTA CLARA, CA 95050

In re Application of :
John N. McMahon, et al. :
Application No. 11/136,860 : DECISION ON PETITION
Filed: October 28, 2005 : TO WITHDRAW
Attorney Docket No. 16358.24 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 2007

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fountainhead Law Group, PC has been revoked by the assignee of the patent application on July 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: WORKMAN NYDEGGER
60 E. SOUTH TEMPLE
SUITE 1000
SALT LAKE CITY, UT 84111

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

Mail Date: 04/21/2010

Applicant	: Harold V. Putman	: DECISION ON REQUEST FOR
Patent Number	: 7613643	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/136,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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DEC 02 2005

Director's Office
Group 3700

Peter O'D. Gibson
Via Santa Reparata 32R
50129 Firenze, Italy

In re Application of :
Joseph K. Warner, et al. :
Serial No. 11/136,906 : DECISION ON PETITION
Filed: May 25, 2005 : TO MAKE SPECIAL

For: BURIED FLUID LINE CAUSING ENCLOSED VALVE GUARD

Applicant's petition, filed November 18, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

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

rt/ 12/01/05

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1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Harden, et al. :
Application No. 11/136,912 : DECISION
Filed: 24 May, 2005 :
Attorney Docket No. 53183AUSM1 :

This is a decision on the petition filed on 5 August, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 8 January, 2008, with reply due under a non-extendable deadline on or before 8 April, 2008;
- the application went abandoned by operation of law after midnight 8 April, 2008;
- the Office mailed the Notice of Abandonment on 2 May, 2008;

- on 5 August, 2008, Petitioner submitted a petition with fee, the reply in the form of fees due, and made the statement of unintentional delay.

Thereafter, on 18 December, 2008, the Assignee submitted a Revocation/Power of Attorney, which was acknowledged by the Office on 5 January, 2009.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[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]))

As to Allegations of Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

---

[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.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent 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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

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OFFICE OF PETITIONS

In re Application of
Peter A. Masterson et al.
Application No. 11/136,914
Filed: May 25, 2005
Attorney Docket Number: CAO-0399-D

: DECISION GRANTING PETITION

This is a decision on the petition filed April 28, 2009 to revive the above identified application under 37 CFR 1.137(a)[1], or in the alternative, under 37 CFR 1.137(b),[2] .

---

[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

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

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

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

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

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

The petition under 37 CFR 1.137(a) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided in 37 CFR 1.192(a). A Notice of Appeal was filed November 1, 2007. On March 3, 2008, an appeal brief was filed with a two month extension of time. On May 14, 2008, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed. In response, a Supplemental Appeal Brief was filed September 15, 2008. On November 26, 2008, a second Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was prepared and forms the basis of the abandonment. No reply was timely filed and thus, the appeal was dismissed and a Notice of Abandonment was mailed on January 22, 2009.

Petitioner argues that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) dated November 26, 2008 was not mailed and thus not received.

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.[3]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable

---

[3] 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).

employees, the response is not timely received in the Office.[4]

A review of the record discloses that petitioner opted to received Office Communications via Electronic Delivery with a start date of September 16, 2008. In view thereof, it does not appear that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was transmitted electronically by email and as argued by petitioner, not received.

The evidence presented corroborates non-receipt of the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) dated November 26, 2008 and of unavoidable delay.

Petitioner is advised however that the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed May 14, 2008 set a reply period of one month. The Supplemental Appeal Brief filed September 15, 2008 was filed without an extension of time and per the authorization to charge any fees relating to the filing of the Replacement Appeal Brief, including extensions, to Deposit account 06-1130, to make the response timely, deposit account no. 06-1130 has been charged in the amount of $1050.00 for a three month extension of time.

As well, petitioner's deposit account no. 06-1130 has been charged in the amount of $540.00 for the petition under 37 CFR 1.137(a).

In view thereof, there is no need to treat the petition under 37 CFR 1.137(b), the unintentional standard and this matter is being referred to Technology Center 3657 for review of the Supplemental Appeal Brief filed April 28, 2009 with the instant petition to revive.

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

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/136,926	05/25/2005	Yoichiro Sako	7217/74216	7118

7590 09/10/2009

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

EXAMINER	
BELTOWSKI, JARED D	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
09/10/2009	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

Refund Refs
09/11/2009 NFARMER 0300158772

CHECK Refund Total: $900.00

Adjustment date: 09/11/2009 NFARMER
05/27/2005 STEUMEL1 00000008 11136926
02 FC:1111 -500.00 DP
04 FC:1201 -400.00 DP

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Valeo, Inc.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills, MI 48326

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JUL 20 2006

OFFICE OF PETITIONS

In re Application of :
Philippe Vincent, et al. :
Application No. 11/136,932 : DECISION ON PETITION
Filed: May 25, 2005 : TO WITHDRAW
Attorney Docket No. TFR0338 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

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

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-2753.

for David Bucci
Petitions Examiner
Office of Petitions

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Empk & Shiloh, LLP
116 John Street
Suite 1201
New York, NY 10038

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OFFICE OF PETITIONS

In re Application of :

Vladimir Ulybin :
Application No. 11/136,933 : DECISION ON PETITION
Filed: May 25, 2005 : TO WITHDRAW
Attorney Docket No. ELG-P-9020-US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

The request is **APPROVED**.

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

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

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Vladimir Ulybin**
22 Sheftel Arie Street
Rishon Lezion
Israel, 74234

cc: **Empk & Shiloh, LLP**
116 John Street
Suite 1201
New York, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Edward K. Bates	:	
Application No. 11/136,947	:	DECISION GRANTING PETITION
Filed: May 24, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. Bates.E-01 (IDG)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of July 11, 2005, 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 for preexamination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 062205

Harish Dhingra
10700 Rockley Road
Houston, TX 77099

JUL 7 2005

In re Application of:
Charlie L Tolliver
Serial No.: 11/136/972
Filed: May 25, 2005
Attorney Docket No.: **CT-005-002US**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed May 25, 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 Delayed Certificate of Birth from Charlie L Tolliver showing 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 E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

DENIRO/RAMBUS
575 MARKET STREET
SUITE 2500
SAN FRANCISCO CA 94105

In re Application of :
Richard E. Perego et al :
Application No. 11/136,995 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. RAMB-01049US14 :

This is a decision on the petition, filed October 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 21, 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 2189 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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SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

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MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard K. Williams et al	:	
Application No. 11/137,001	:	DECISION GRANTING PETITION
Filed: May 25, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AAT004-3D US	:	

This is a decision on the petition, filed March 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 14, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar10\137001.wpd

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

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PIERCE ATWOOD LLP
160 FEDERAL STREET
10TH FLOOR
BOSTON MA 02110

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of	:	
McIsaac et al.	:	DECISION ON PETITION
Application No. 11/137,031	:	TO WITHDRAW
Filed: May 25, 2005	:	FROM RECORD
Attorney Docket No. 081893-0110	:	

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 23, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Foley & Lardner LLP does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Foley & Lardner LLP PC not having power of attorney. See MPEP §§ 601.03 and 405.

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

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

In re Application of :
Salman Akram :
Application No. 11/137,035 :
Filed: May 25, 2005 :
Attorney Docket No. 2269-3854.5US (98-0854.05) :

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MAR 15 2006
ON PETITION
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 7, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
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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OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

In re Application of

BROCKMEYER, Douglas L. et al
Application No. 11/137,036
Filed: May 25, 2005
Attorney Docket No. **0274-6353.1US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2007.

The request is **APPROVED**.

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

The request was signed by Allen C. Turner 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.

There are no outstanding office actions at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **DOUGLASS L. BROCKMEYER**
760 EDGEHILL ROAD
SALT LAKE CITY, UT 84103

cc: **NEEDLE AND ROSENBERG**
999 PEACHTREE STREET, SUITE 1000
ATLANTA, GA 30309

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Tiajoloff & Kelly
Chrysler Building, 37th Floor
405 Lexington Avenue
New York, NY 10174

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OFFICE OF PETITIONS

In re Application of :
Ilan Bloom :
Application No. 11/137,042 : DECISION ON PETITION
Filed: May 25, 2005 : TO WITHDRAW
Attorney Docket No. ELG-P-6290-US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

The request is **APPROVED**.

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

The request was signed by Andrew Tiajoloff 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 September 26, 2007 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ilan Bloom**
16 Hasachlav Street
Haifa 34790
Israel

cc: **Empk & Shiloh, LLP**
116 John Street
Suite 1201
New York, NY 10038

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OFFICE OF PETITIONS

In re Application of
Williams et al.
Application No. 11/137,056
Filed: May 25, 2005
Attorney Docket Number: AAT004-5D US
Title of Invention: Trench Semiconductor Device Having Gate Oxide Layer with Multiple Thicknesses and Processes of Fabricating the Same

: DECISION ON PETITION

This is a decision on the petition filed July 17, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed April 7, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 8, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA CA 95054

In re Application of :
Richard K. Williams et al :
Application No. 11/137,056 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. AAT004-5D US :

This is a decision on the petition, filed September 27, 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 17, 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 2823 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
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : October 5, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Richard K. Williams et al
Application No. :11/137,056
Filed :May 25, 2005

The above-identified application has been assigned Patent No. 7,125,773 and an issue date of October 24, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 24, 2006:

"All reference to Patent No. 7,125,773 to Richard K. Williams et al of California for TRENCH SEMICONDUCTOR DEVICE HAVING GATE OXIDE LAYER WITH MULTIPLE THICKNESSES AND PROCESSES OF FABRICATING THE SAME appearing in the Official Gazette of October 24, 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

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11137056

Total Records Found: 11

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
09/29/2006	00000017	1	1801	$790.00	09/27/2006	CC
09/29/2006	00000018	1	1464	$130.00	09/27/2006	CC
07/18/2006	00000082	1	1453	$1,500.00	07/17/2006	CC
07/18/2006	00000142	1	1504	$300.00	07/17/2006	CC
07/18/2006	00000141	1	1501	$1,400.00	07/17/2006	CC
03/01/2006	00000015	1	1806	$180.00	02/27/2006	CC
05/27/2005	00000031	1	1011	$300.00	05/25/2005	CC
05/27/2005	00000032	1	1111	$500.00	05/25/2005	CC
05/27/2005	00000033	1	1311	$200.00	05/25/2005	CC
05/27/2005	00000034	1	1201	$200.00	05/25/2005	CC
05/27/2005	00000035	1	1081	$250.00	05/25/2005	CC

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PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON VA 22201-2909

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Craig L. Reding et al :
Application No. 11/137,058 :
Filed: May 25, 2005 :
Attorney Docket No. 00-VE22.43 CON1 :

This is a decision on the petition filed February 1, 2007, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition filed February 22, 2007 and resubmitted on March 9, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **GRANTED.**

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee on or before January 31, 2007 in reply to the Notice of Allowance mailed October 31, 2006.

As to the petition under 37 CFR 1.313(c)(2):

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 1, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

---

[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

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

This matter is being referred to Technology Center AU 2626 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Fish & Richardson, P.C.
PO Box 1022
Minneapolis, MN 5540-1022

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OFFICE OF PETITIONS

In re Application of	:	
Gary Earl Britt	:	
Application No. 11/137,065	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. 19087-004001	:	FROM RECORD
	:	

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 10, 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 Michael T. Hawkins 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 Gary Earl Britt at the address indicated below.

There is an outstanding Office action mailed December 29, 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: **Gary Earl Britt**
25 Elm Street
Westfield, NJ 07090

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/137,065	05/25/2005	Gary Earl Britt	19087-004001

CONFIRMATION NO. 6790

POWER OF ATTORNEY NOTICE

26191
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000035880530

Date Mailed: 05/08/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/10/2009.

- 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.

/tswilliams/

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

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O"SHEA GETZ P.C.
1500 MAIN ST. SUITE 912
SPRINGFIELD MA 01115

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OFFICE OF PETITIONS

In re Application of :
Mark ADDIS :
Application No. 11/137,066 : DECISION ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. **3309P-0195** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 08, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 09, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of arguments/remarks, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 08, 2007 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the petition.

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

This application is being referred to Technology Center AU 3676 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JOHN SWIATOCHA**
PRATT & WHITNEY
MAIL STOP 132-13
400 MAIN ST.
EAST HARTFORD CT 06108

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Dirk Lange	: DECISION ON REQUEST FOR
Patent Number	: 7611790	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/137,084	: 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 **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Peter Chin :
Application No. 11/137086 :
Filing or 371(c) Date: 05/24/2005 : ON PETITION
Attorney Docket Number: :
MS 311864.01/14917.0133US :

This is a decision on the "Petition to Expunge," filed March 19, 2008. The petition to expunge is properly treated under 37 C.F.R. § 1.59.

The Petition under 37 C.F.R. § 1.59 is hereby **dismissed.**

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner files the present petition to remove unintentionally submitted information.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue[1];
> (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

[1] The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. The Office will, however, "close" the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The present petition lacks items (B), (C), and (D). Petitioner has failed to state that the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted; Petitioner has failed to state that the information has not otherwise been made public, and Petitioner has failed to commit to retain such information for the period of any patent with regard to which the information was submitted.

The petition is dismissed without prejudice. Petitioner should file a request for reconsideration of the petition and include the necessary statements.

The application file is being referred to Technology Center Art Unit 2617 for continued examination in due course.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH ,PA 15219

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JUN 23 2008

In re Application of	:	
JOHNSON, Richard G.	:	
Application No. 11/137,115	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. **4428-051343**	:	FROM RECORD
	:	

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 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 Kirk M. Miles on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Richard G. Johnson at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RICHARD G. JOHNSON**
5567 HAMPTON STREET
PITTSBURG, PA 15206

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
Clark, Edward Russell :
Application No. 11/137,139 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. 2006P01421US01; :
60426-802PUS1

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue 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

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

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Bernard, Malfroy-Camine et al.	:	
Application No. 11/137,141	:	DECISION ON PETITION
Filed: May 27, 2005	:	TO WITHDRAW
Attorney Docket No. 015390-000443US (RICE-039CON2)	:	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 November 4, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Eugenia Garrett-Wackowski and the attorneys associated with customer number 20350 do not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The above submitted application serial number is incorrect and does not correspond to attorney docket No. 015390-000443US (RICE-039CON2).

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

Telephone inquires concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucei
Petitions Examiner
Office of Petitions

Conferee:

cc: Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

cc: Dr. Carol Francis
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Patrick Vandenameele	: DECISION ON REQUEST FOR
Patent Number	: 7656961	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/137,142	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **686** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 08 2005
TRADEMARK

06-18-05

IFW

5288

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Angelo L. Mazzei

Serial No.: 11/137,144

Filed: May 24, 2005

For: SUBSURFACE IRRIGATION OF PLANTS TREES AND LANDSCAPE WITH WATER CONTAINING GAS MICRO-BUBBLES

Pasadena, California 91101

June 9, 2005

PETITION TO MAKE SPECIAL
37CFR 1.102(C)(2)(i), MPEP 708.02 SECTION V

Honorable Commissioner for Patents

Alexandria, VA 22313

Sir:

Applicant herein through his undersigned attorney of record, hereby petitions the Commissioner to make this application special, and to advance it for prosecution.

The ground for this petition is that the invention materially enhances the quality of the environment of mankind by contribution to the maintenance of the basic life-sustaining natural elements water and soil. This is supported and explained in the accompanying statement of Donald D. Mon.

No fee is required.

EV576721925 9 Jun 05

"Express Mail" mail label _____ Date of Deposit _____

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 is addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

lead

1

Donald D. Mon Reg. No. 18,155

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700 JUN 28 2005

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAIL

OCT 02 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
LUNDSTROM, CLAES F. :
Serial No.: 11/137,160 : DECISION ON PETITION
Filed: **May 25, 2005** :*ACCEPTANCE OF COLOR DRAWINGS*
For: **AUTOMATED MEDICAL IMAGE VISUALIZATION USING VOLUME RENDERING WITH LOCAL HISTOGRAMS** :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed May 25, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 7B, 12A, 12B, 13A, 13B, 14A, 14B, 15A, 15B, 16A, 16B, 17A, 17B, 18A, 18B and 18C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is GRANTED.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 06/19/09

Patent No. : 7532214 B2
Ser. No. : 11/137,160
Inventor(s) : LUNDSTROM, CLAES F.
Issued : 05/12/09
Title : **AUTOMATED MEDICAL IMAGE VISUALIZATION USING VOLUME RENDERING WITH LOCAL HISTOGRAMS**
Docket No. : **9514.2**

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) 273-0025
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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

LMN

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OFFICE OF PETITIONS

Myers Bigel Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

In re Patent No. 7,532,214 :
Issue Date: May 12, 2009 :
Application No. 11/137,160 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. 9514.2 :

This is a decision on the petition filed June 29, 2009, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a proper request for certificate of correction. Our records indicate the correct assignee of record is "Sectra AB". The request for a certificate of correction lists "Sectra". Petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request.

Inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,532,214 :
Issue Date: May 12, 2009 :
Application No. 11/137,160 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. 9514.2 :

This is a decision on the renewed petition filed November 18, 2009, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

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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JONATHAN SPANGLER
NUVASIVE, INC.
7475 LUSK BOULEVARD
SAN DIEGO CA 92121

RECEIVED

DEC 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,207,949
Issue Date: April 24, 2007
Application No. 11/137,169
Filed: May 25, 2005
Attorney Docket No. 095US1

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

This is a decision on the petition filed October 22, 2008, under 37 CFR 1.78(a)(3) and 35 U.S.C. §120, to accept an unintentionally delayed claim, for the benefit of a prior-filed international PCT application (Application No. PCT/US2004/031768), filed by way of a certificate of correction filed concurrently herewith.

The petition is **GRANTED**.

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

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

Application no. 11/137,169 which was filed after November 29, 2000, matured into Patent No. 7,207,949 on April 24, 2007. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in a certificate of correction, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner's deposit account no. 50-2040 has been charged for the petition fee and the certificate of correction fee.

This application is being forwarded to the Certificates of Corrections branch for an issuance of a certificate of correction noting the priority claim to prior filed application 11/137,169 filed May 25, 2005, which matured into Patent No. 7,207,949 on April 24, 2007.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. Any questions regarding the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS F. LENIHAN
TEKTRONIX, INC.
14150 S. W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

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APR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Dan ONU	:	
Application No. 11/137,176	:	DECISION ON PETITION
Filed: 5/24/2005	:	
Attorney Docket No. 7660-US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 2/15/2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before 12/24/2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed 9/24/2007. Accordingly, the date of abandonment of this application is 12/25/2007.

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

The drawings have been approved by the examiner 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.

David A. Bucci
Petitions Examiner
Office of Petitions

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OVERLAND PARK KS 66211

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OFFICE OF PETITIONS

In re Application of	:	
Farris et al.	:	
Application No.: 11/137187	:	
Filing or 371(c) Date: 05/25/2005	:	DECISION
Attorney Docket Number: 3581	:	ON PETITION

This is a decision in response to the Petition to Withdraw the Holding of Abandonment Based on Failure to Receive Notice of Allowance and Fee(s) Due, filed May 21, 2007. The petition is properly treated under 37 C.F.R. 1.181.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability (Notices), mailed December 26, 2006. The Notices set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on March 27, 2007. A Notice of Abandonment was mailed April 25, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Notices by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2829 for re-mailing of the Notice of Allowance and Issue Fee Due and Notice of Allowability.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HONEYWELL/UOP
PATENT SERVICES
101 COLUMBIA DRIVE
P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

Applicant	: Dean E. Rende	: DECISION ON REQUEST FOR
Patent Number	: 7638459	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/137,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BANK OF AMERICA PLAZA
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CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of
Wilson et al.
Application No.11/137,207
Filed: May 25, 2005
Attorney Docket Number: 05724/291129
Title of Invention: System and Devices for Vision Protection Policy

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on June 30, 2005, requesting that the above-identified application be accorded a filing date of May 24, 2005, rather than the presently accorded filing date of May 25, 2005.

Petitioner contends the application was deposited in Express Mail service on May 24, 2005. In support, petitioner supplied a copy of Express Mail receipt No. EL952538903US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). A review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on May 24, 2005.

In view of the above, the petition is **Granted**. The petition fee will be refunded to deposit account 16-0605.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **May 24, 2005** and issuance of a corrected Filing Receipt.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____

2 Serial/Patent # 11/137,207

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition		6/30/05	$ 400
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 400

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 16--0605

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

P.M. GRANTCI

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: CHARLEMA GRANT TITLE: _____

SIGNATURE: C Grant PHONE: X-3215

OFFICE: Petitions

****

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APPROVED: Olivia Kelly DATE: 8/10/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/137,209	05/25/2005	Ga-Lane Chen	US5909	7072

54000 7590 08/07/2009

PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

EXAMINER	
BUI PHO, PASCAL M	

ART UNIT	PAPER NUMBER
2878	

MAIL DATE	DELIVERY MODE
08/07/2009	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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In re Application of
Ga-Lane Chen
Serial No.: 11/137,209
Filed: May, 25, 2005
For: MOBILE PHONE WITH NIGHT VISION FUNCTION

DECISION ON PETITION
UNDER 37 CFR 1.181(a)

The request filed on May 27, 2008, requesting a designation of new grounds of rejection or, in the alternative, strike portions of the Examiner's Answer of April 1, 2008 is treated as a Petition under 37 CFR 1.181(a).

The petition is **GRANTED**.

Petitioner asserts that the Examiner's Answer includes a statement that there exists a possible anticipation rejection of the appealed claims 1 and 12 under 35 USC 102(e) over Emme, US patent publication No. 2003/0122957. Emme is a reference used to finally reject the claims solely under 35 USC 103(a). Petitioner's requests that the examiner's statement of possible anticipation to be designated either as 1) a new ground of rejection pursuant to 37 CFR 41.39(b), or 2) be stricken from the file record as being irrelevant and unduly prejudicial.

In the Examiner's Answer mailed April 1, 2008, section 10 (page 15), the Examiner described details of a possible anticipation rejection under 35 USC 102(e) of appealed claims 1 and 12 using the reference to Emme (US Pub 2003/0122957). The prosecution record reveals that Emme had only been used in rejecting claims 1 and 12 under 35 USC 103 and only in combination with Tsukahara et al. (USP 6,295,088). As such, the anticipatory statements in the Examiner's Answer constitute a new ground of rejection that had not been previously applied and must be properly made of record.

For this reason, the Appeal of this application is hereby withdrawn and prosecution re-opened. A new Office action will be issued to include a rejection of the claims, where appropriate, under 35 USC 102(e) over the reference to Emme. This application is being returned to the examiner for promptly preparing a non-final Office action consistent with this decision.

Telephone inquires should be directed to SPE Georgia Y. Epps at (571) 272-2328.

Cassandra Spyrou, Acting Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

Steven M. Reiss
PCE Industry, Inc
695 Kenmoor, S.E.
458 E. Lambert Road
Fullerton, CA 92835

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SUITE 128
PORT WASHINGTON NY 11050

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OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 11/137,245 : ON PETITION
Filed: July 5, 2005 :
Attorney Docket No.: :
YOR920050121US1 (163-77) :
Title of Invention: CROSSTALK :
REDUCTION IN ELECTRICAL :
INTERCONNECTS USING DIFFERENTIAL :
SIGNALING

This is a decision on the petition filed July 5, 2005, requesting in effect, that a Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed June 17, 2005, be withdrawn.

The application was filed on May 25, 2005. However, on June 17, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of May 25, 2005 but figures 10 and 11 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 5 sheets of drawings including figures 10 and 11 were filed on May 25, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists "Drawings (5 sheets)" . The petition is further accompanied by a copy of figures 10 and 11 as described in the specification.

Applicants' postcard receipt is prima facie evidence that 5 sheets of drawings including figures 10 and 11 as described in the specification were received on May 25, 2005, but figures 10 and 11 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figures 10 and 11 as described in the specification were received on May 25, 2005 as shown in counsel's file, and later misplaced in the office.

The petition is Granted. No petition fee is due and none has been charged.

Since figures 10 and 11 cannot be located in the Office, figures 10 and 11 supplied with the petition on July 5, 2005, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 25, 2005, using the drawings submitted on that day and the copy of figures 10 and 11 supplied on July 5, 2005.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Andrew D. Sauter Jr.
217 Garfield Dr.
Henderson, NV 89074

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OFFICE OF PETITIONS

In re Application of

:

Andrew Daniel Sauter, Jr.

Application No. 11/137,254

: DECISION ON PETITION

Filed: May 25, 2005

:

Attorney Docket No. 60/574,104

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on April 11, 2006.

The petition is **granted**.

This application was held abandoned on August 30, 2005, after no reply was received to the Notice to File Corrected Application Papers mailed June 29, 2005. The notice set forth a period for reply of two months from its mailing date. A Notice of Abandonment was mailed on March 15, 2006. The instant petition was filed on April 11, 2006. Petitioner maintains that the notice of June 29, 2005, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The replacement drawings and abstract filed April 11, 2006, are noted.

The application file is being forwarded to the Office of Initial Patent Examination for further processing. Using its discretion, the Office of Initial Patent Examination may either accept the replacement drawings and abstract filed April 11, 2006, or reset the time period for reply to the Notice to File Corrected Application Papers that was mailed on June 29, 2005.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/137,257	05/25/2005	William D. Denison	MET-041424CP07	7143

7590 02/18/2009

FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

EXAMINER	
SYED, NABIL H	

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
02/18/2009	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: 02/19/2009 BPOWELL
05/27/2005 MRIZUNES 00000064 11137257
02 FC:2111 -250.00 OP
04 FC:2201 -200.00 OP
05 FC:2202 -1175.00 OP

Repln. Ref: 02/19/2009 BPOWELL 0015370300
DA#:182220 Name/Number:11806908
FC: 9204 $1250.00 CR

Repln. Ref: 02/19/2009 BPOWELL 0015391100
DA#:500545 Name/Number:11137257
FC: 9204 $1625.00 CR

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1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO IL 60607

In re Application of :
Denison et al. :
Application No. 11/137,257 : DECISION ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. MET-041424CP07 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2009, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was requested expressly abandoned by petitioner on January 28, 2009 and February 14, 2009. A Notice of Abandonment was mailed on February 18, 2009.

Petitioner contends that he was not Power of Attorney at the time he filed the requests for Express Abandonment of U.S. Application No. 11/137,257 and also filed Petitions for Express Abandonment to Obtain a Refund on January 28, 2009 and on February 14, 2009. Petitioner further states, "On February 16, 2009, Joseph Kinsella Jr. discovered that the previously filed requests for express abandonment of U.S. Application No. 11/137,257 were defective. Namely, the request filed on January 29, 2009 was defective because it incorrectly included a statement that Joseph Kinsella Jr. was the attorney or agent at the time acting under 37 C.F.R. § 1.34 and that the application was being abandoned in favor of a continuing application, and an attorney registration number was not provided; and, the request filed on February 14, 2009 was defective because it incorrectly included a statement that Joseph Kinsella Jr. was the attorney or agent of record."

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The petition to revive under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT**.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. However, petitioner is now required to resubmit the $200.00 Independent Claims In Excess of Three fee; the $250.00 Search Fee; and the $1,175.00 Claims in Excess of Twenty fee, totaling $1,625.00. Accordingly, the small entity $810.00 petition fee submitted with the 1.137(b) instant petition will be applied to these fees, leaving a shortage of $815.00. The amount of $815.00 will be charged to petitioner's deposit account as previously authorized.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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L. HOWARD CHEN, ESQ.
KIRKPATRICK & LOCKHART, PRESTON, GATES, ELLIS, LLP
55 SECOND STREET, SUITE 1700
SAN FRANCISCO, CA 94104

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Shao-Chang Huang, et al. :
Application No. 11/137,265 : DECISION DISMISSING PETITION
Filed: May 25, 2005 : UNDER 37 CFR 1.313(a)
Attorney Docket No. TSMC2004-1127 :

This is a decision on the petition under 37 CFR 1.313(a), filed March 6, 2009, requesting withdrawal of the above-identified application from issue.

The petition is **DISMISSED** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 2, 2009, with the issue fee being due on or before May 2, 2009. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

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

The matter is being referred to Technology Center AU 2836 for appropriate processing of the RCE filed March 6, 2009, and for consideration of the concurrently filed information disclosure statement.

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

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1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115

In re Application of :
David G. Anderson et al :
Application No. 11/137,273 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No. :
A3546USCIP/SERZ200877US02 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 21, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to time pay the issue and publication fees on or before January 4, 2010, in accordance with the Notice of Allowance mailed October 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue and publication fees; (2) the petition fee of $540.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MANELLI DENISON & SELTER
2000 M STREET, NW - SUITE 700
WASHINGTON, DC 20036-3307

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of :
Luc-Michel Riblier, Helene Grussaute Nghiem, :
Rino Messere, Anne-Sophie Hebert and :
Jean-Michel Florentin :
Application No. 11/137,373 :
Filed: May 26, 2005 :
Title: REFRIGERATED DISPLAY CASE :
HAVING A TRANSPARENT INSULATING :
GLAZING UNIT :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 26, 2005.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 26, 2005 without an executed oath or declaration and naming Luc-Michel Riblier, Helene Grussaute Nghiem, Rino Messere, Anne-Sophie Hebert and Jean-Michel Florentin as joint inventors.

Accordingly, on June 29, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on September 26, 2005, the instant petition and a one-month extension of time were filed.

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

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

(2) an acceptable oath or declaration;

(3) the petition fee; and

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

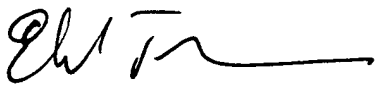
Applicant lacks item (2), as set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted September 26, 2005 does not set forth the citizenship of inventor Anne-Sophie Hebert. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a).

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of :
Luc-Michel Riblier, Helene Grussaute Nghiem, :
Rino Messere, Anne-Sophie Hebert and :
Jean-Michel Florentin :
Application No. 11/137,373 :
Filed: May 26, 2005 :
For: REFRIGERATED DISPLAY CASE :
HAVING A TRANSPARENT INSULATING :
GLAZING UNIT :

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed November 8, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 3700 for examination *in due course.*

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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JEAN-MICHEL FLORENTIN
845 RUE DE LA VILLETTE
02200 VAUXBUIN
FRANCE

In re Application of
Luc-Michel Riblier, Helene Grussaute Nghiem,
Rino Messere, Anne-Sophie Hebert and
Jean-Michel Florentin
Application No. 11/137,373
Filed: May 26, 2005
For: REFRIGERATED DISPLAY CASE HAVING A TRANSPARENT INSULATING GLAZING UNIT

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NOV 25 2005

OFFICE OF PETITIONS

Dear JEAN-MICHEL FLORENTIN:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MANELLI DENISON & SELTER
2000 M STREET, NW - SUITE 700
WASHINGTON, DC 20036-3307
U.S.A.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENING LI
PINSENT MASONS
c/o BAKER DONELSON BEARMAN CALDWELL& BERKOWITZ, PC
555 ELEVENTH STREET, NW, SIXTH FLOOR
WASHINGTON DC 20004

COPY MAILED

NOV 10 2008

In re Application of :
Longley et al. :
Application No. 11/137,415 : DECISION ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 2901803-004000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The record shows that a Notice of Noncompliant Amendment was mailed on November 15, 2007, which set a one month shortened statutory period for reply. Accordingly, a reply was due on or before December 15, 2007. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 16, 2007. A Notice of Abandonment was mailed on June 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 a amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Petitioner should make sure that all future correspondence contains the correct application number.

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

This application is being referred to Technology Center AU 1635 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

KENING LI
PINSENT MASONS LLP
C/O FOUNTAIN LAW GROUP INC
18201 VON KARMAN AVENUE SUITE 960
IRVINE CA 92612

In re Application of :
Longley, et al. :
Application No. 11/137,415 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 636477-07001 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 14, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed December 18, 2008. This Office action set a shortened statutory period for reply of three months. Applicants filed an Amendment on March 17, 2009. However, by Advisory Action mailed March 30, 2009, the Examiner informed Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply having

been received, the application became abandoned on March 19, 2009. The Office mailed a Notice of Abandonment on August 10, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 1635 for consideration of the RCE, filed September 14, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOV 5 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

In re Application of:
SHIN, DONG-YONG
Application Serial No.: 11/137,450
Filed: May 26, 2005
For: **LIGHT EMITTING DISPLAY AND DRIVING DEVICE AND METHOD THEREOF**

DECISION ON PETITION

This is a decision on the petition, requesting the RCE filed September 28, 2009 be withdrawn and fee paid pursuant to 37 CFR § 1.17(e) be refunded, pursuant to 37 C.F.R. §1.181, filed October 21, 2009. No fee is required.

In support of the petition, the petitioner states:

> *"The filing of a Request for Continued Examination (RCE) with the Amendment After Final (which was to place the application in condition for allowance) was wholly unnecessary and completely inadvertent made by a legal clerk unfamiliar with the present application.*
>
> *In addition, the Applicant's intention to place the application in condition for allowance is apparent in view of the cancelling of all withdrawn claims 43 through 49 and therefore, the filing of an RCE was completely unnecessary and accidental."*

A review of the application indicates on May 27, 2009 a Final rejection was made by the office rejecting claims 1-6, 8, 22, 23, 25-27, 35, 37-39, 41, and 42. On July 27, 2009 a request to reconsider the final rejection was received. In response, an Advisory action, indicating *the response has been considered and the final office action would be withdrawn and a new office action will be sent out,* was mailed September 01, 2009. On September 28, 2009, a Notice of Allowability together with an Examiner's Amendment and an Interview Summary was mailed. The Interview Summary indicated an agreement was reached between the examiner and the applicant to rejoin claims 7, 9-21, and 28-34 and cancel claims 43-49 in order to allow case. Claims 1-23, 25-35, 37-39, 41, and 42 are allowable. The Examiner's Amendment reflected the agreement reached in the Interview Summary. Also on September 28, 2009, an Amendment After Final together with a request for an RCE was filed by the applicant. The amendment after final also reflected the agreement reached as outlined in the Interview Summary mailed on September 28, 2009.

In reviewing the application, there was an agreement between the examiner and the applicant to amend the application in the manner outlined by both the examiner's amendment and the amendment after final in order to place the application in condition for allowance. It is clear the intention of the examiner and the applicant was to place the application in condition for

allowance. Such was done in a timely manner. Therefore, the filing of an RCE is deemed unnecessary.

Accordingly, the petition to withdraw the RCE request filed 09/28/09 and refund the fee paid pursuant to 37 CFR § 1.17(e) is **GRANTED**.

The application is being forwarded to the Tech Center Support Staff to withdraw the RCE request and provide a refund of $810.00. The application will then be returned to the Office of Publications for final issue processing of the application.

Matthew C. Bella, Acting Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Application of :
Tarek Kaylani, et al. :
Application No.: 11/137,528 : ON PETITION
Filed: May 25, 2005 :
Attorney Docket No.: 16411US02 :

This is a decision on the petition, filed November 10, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 2, 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 2622 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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KRAMER & AMADO, P.C.
SUITE 240
1725 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Grah :
Application No. 11/137,548 : DECISION
Filed: 26 May, 2005 :
Attorney Docket No. ALC 3178 :

This is a decision on the petition, filed on 2 February, 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 **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner's attention is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final Office action mailed on 21 April, 2008, with reply due absent extension of time on or before, 21 July, 2008.

The application went abandoned by operation of law after midnight 21 July, 2008.

The Office mailed a Notice of Abandonment on 17 December, 2008.

On 2 February, 2009, filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181, averring non-receipt with statements of non-receipt at the correspondence address of record, search and non-discovery and averred attachment of docket sheet and due date calendar—neither of the documents were attached and that fact also is reflected in the electronic acknowledgement receipt issued by the Office on submission of the petition. (Petitioner also filed a reply in the form of an amendment.) And, although Petitioner the requirement that he describe the docketing system and state as to its reliability, he failed to do so.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing

that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

Again, while Petitioner may have recognized his burden on petition, he failed to satisfy it.

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)(B).

[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]

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.

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]

---

[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 not to have made the showing required or do so within the time required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KRAMER & AMADO, P.C.
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ALEXANDRIA VA 22314

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Grah :
Application No. 11/137,548 : DECISION
Filed: 26 May, 2005 :
Attorney Docket No. ALC 3178 :

This is a decision on the petition, filed on 27 March, 2009, under the provisions of 37 C.F.R. §1.137(b), seeking revival of the application as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

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

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c) for guidance as to satisfying the requirements for relief under 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final Office action mailed on 21 April, 2008, with reply due absent extension of time on or before, 21 July, 2008.

The application went abandoned by operation of law after midnight 21 July, 2008.

The Office mailed a Notice of Abandonment on 17 December, 2008.

On 2 February, 2009, filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181, averring non-receipt with statements of non-receipt at the correspondence address of record, search and non-discovery and averred attachment of docket sheet and due date calendar—neither of the documents were attached and that fact also is reflected in the electronic acknowledgement receipt issued by the Office on submission of the petition. (Petitioner also filed a reply in the form of an amendment.) And, although Petitioner the requirement that he describe the docketing system and state as to its reliability, he failed to do so. Because Petitioner failed to comply with the guidance in the Commentary at MPEP §711.03(c)(I), the petition was dismissed on 16 March, 2009.

On 27 March, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of an amendment.

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.

---

[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.

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]))

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2419 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.

[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.

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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OFFICE OF PETITIONS

In re Application of :
Lepp et al. : DECISION ON PETITION
Application No. 11/137,556 :
Filed: May 26, 2005 :
Atty Docket No. 420-1US :

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed May 5, 2008, pursuant to 37 C.F.R. § 1.181.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed August 15, 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 considered filed and no extension of time considered obtained, the application became abandoned effective November 16, 2007. A courtesy Notice of Abandonment was mailed on April 2, 2008.

In response, applicants timely filed the instant petition. Applicants contend their agent forwarded a response including funds to pay for and a petition for extension of time dated December 12, 2007. The petition included copies of the response and of the money order for the extension of time fee.

Consideration of applicants' evidence is unnecessary. (However, it is noted that the best evidence of receipt of an item in the Office is a date-stamped and itemized return postcard. See MPEP 503). Applicants' response, including an extension of time, is present in the application with a date of receipt of December 14, 2007. Further, the extension of time fee is of record paid

by check with a mail room date of November 14, 2007[1] (and processing date of December 17, 2007). There is no indication in the record that the fee was in any way found insufficient. It is concluded that the record makes clear that a response to the non-final Office action was timely received in the Office on December 14, 2007.

Accordingly, the Notice of Abandonment mailed April 2, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3651 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on December 14, 2007 (with a one-month extension of time).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] It appears that the mail room date may have been incorrectly entered as November 14, 2007, rather than December 14, 2007.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-1-09 Paper No.: _____

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/137571 Patent No.: 7514386

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

FOR IFW FILES: Should mentors be appeared

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: N/A

MARK EASHOO, PH.D.
SUPERVISORY PATENT EXAMINER

M. Eashoo
SPE

1796
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

RONALD ANTHONY CLARK
11402 ACCOLADE COURT
CLINTON MD 20735

COPY MAILED

MAR 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronald Anthony et al.	:	
Application No. 11/137,593	:	ON PETITION
Filed: May 25, 2005	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 1, 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 October 4, 2005. The Notice of Abandonment was mailed September 20, 2006.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RONALD ANTHONY CLARK
11402 ACCOLADE COURT
CLINTON MD 20735

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Clark, et al. :
Application No. 11/137,593 :
Filed: May 25, 2005 :
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on December 10, 2008, to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed October 20, 2008, which set a shortened period for reply of one-month from its mailing date. No response was received within the allowable period, and the application became abandoned on November 21, 2008. A Notice of Abandonment was mailed on January 21, 2009.

The instant petition was filed on December 10, 2008, wherein petitioner argues that the Notice of Non-Compliant Amendment was not received.

The petition will not be treated on its merits at this juncture because it is not signed by all of the necessary parties. Further to this point, 37 CFR 1.33(b) provides, in pertinent part that:

> 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.

The petition, as filed, is defective because it is only signed by inventor Clark, but there is an additional joint inventor listed on the application. The renewed petition must be signed by

either all the named joint inventors, an attorney of record in the application, or a representative of the assignee that is empowered by 37 CFR 3.73(b).

The request to change the correspondence address is noted, but cannot be entered as the request is signed by only one of the joint inventors. A courtesy copy of this decision is being mailed to the address cited on the petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Ronald Clark
5527 Al Jones Drive
Shady Side, MD 20764

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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RONALD CLARK
5227 Al Jones Drive
Shadyside, MD 20764

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APR 10 2009

OFFICE OF PETITIONS

In re Application of
Clark, et al.
Application No. 11/137,593
Filed: May 25, 2005
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on March 13, 2009, to withdraw the holding of abandonment in the above-cited application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed October 20, 2008, which set a shortened period for reply of one-month from its mailing date. No response was received within the allowable period, and the application became abandoned on November 21, 2008. A Notice of Abandonment was mailed on January 21, 2009.

A petition to withdraw the holding of abandonment was filed on December 10, 2008, wherein petitioner argued that the Notice of Non-Compliant Amendment was not received. The petition was dismissed by a decision mailed March 2, 2009.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> 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.

Petitioner has not made the evidentiary showing specified above. Petitioner has not made the required statements as indicated above and has not provided a copy of the master docket for the three month period for reply set forth non-final Office action. If a master docket does not exists, petitioner is required to state this in the renewed petition and provide any other corroborative evidence that petitioner may have to substantiate the claim that the non-final Office action was not received. If petitioner is a *pro se* applicant, petitioner may provide a copy of the file petitioner maintains containing the papers received from, and filed with, the USPTO and a copy of any calendar or journal petitioner may keep concerning the communications with the USPTO relative to the application.

Further review of the application file and the Office computer records relative to the subject application file reveals that on October 20, 2008 (the date the notice was mailed), the address of record was listed as "11402, Accolade Court, Clinton, Maryland." It appears, however, that prior to the date the notice was mailed, petitioner's address may have changed but may not have timely filed with the Office a communication changing the correspondence address of record.

Title 37 of the Code of Federal Regulations section 1.33(a) and Section 601.03 provides that the applicant must promptly notify the Office of a change in the correspondence address. Section 711.03(c)(2) of the Manual of Patent Examining Procedure provides that:

> . . . where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing that due care was taken to adhere to the requirement of prompt notification . . . of the change of address. . .and must include an adequate showing that a timely notification of the change of address was filed in the application concerned and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address.

Accordingly, the failure of the notices to arrive at the new address does not warrant a withdrawal of the holding of abandonment if petitioner did not promptly notify the Office of the change of correspondence address for the application. In order for a petition to withdraw the holding of abandonment to be successful under these circumstances, petitioner would have to establish that the Notice was not received at the Clinton, Maryland address or that a request to change the correspondence address was promptly filed prior to the mailing of the Notice of Non-Compliant Amendment.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: .
Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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755 Page Mill Road
Palo Alto, CA 94304

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MAY 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Jeremy Kreitler, et al.	:	
Application No. 11/137,603	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. 085804-719402	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 2010.

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

A review of the file record indicates that the power of attorney to Morrison and Forester has been revoked by the assignee of the patent application on April 30, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **YAHOO! INC. c/o**
GREENBERG TRAURIG, LLP
Met Life Building
200 Park Avenue
New York, NY 10166

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DIW May-08

PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Delgado-Herrera et al.	:	
Application Number: 11/137611	:	ON PETITION
Filing Date: 05/25/2005	:	
Attorney Docket Number:	:	
7518US01	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 23, 2008.

The petition is **granted**.

This application became abandoned on November 23, 2007, for failure to timely submit a response to the Office action requiring restriction and/or election mailed on October 22, 2007, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on May 2, 2008.

---

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

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

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

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

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

Receipt of the response to restriction requirement, electing the claims of Group 1, is acknowledged.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The five (5)-month extension request filed on April 23, 2008, was submitted more than five (5) months after the end of the period for reply to the Office action requiring restriction and/or election mailed on October 22, 2007, and therefore is unnecessary. The extension of time fee paid on April 23, 2008, will be credited to counsel's deposit account as authorized.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The application is being referred to Technology Center Art Unit 1611 for further processing.

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

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAND & SEBOLT
AEGIS TOWER
4940 MUNSON STREET, NW, SUITE 1100
CANTON, OH 44718-3615

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MAR 16 2006
OFFICE OF PETITIONS

In re Application of	:	
James R. Haney	:	
Application No. 11/137,624	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2243001US1AP	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 6, 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 James R. Haney'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 3641 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
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GARY RICHARD GOCHNOUR
APT #303
1415 E. OLIVE STREET
SEATTLE, WA 98122

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Gary Richard Gochnour :
Application No. 11/137,643 :
Filed: May 25, 2005 :
For: Fusion energy system and plasma propulsion aircraft to produce electricity from a controlled unclear fusion reaction :

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 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The petition includes a statement by Gary Richard Gochnour attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3663 to wait applicant's reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed January 11, 2006.

Denise Pothier
Petitions Examiner
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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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Alexander TREGUB et al :
Application No. 11/137,674 : DECISION ON PETITION
Filed: 5/24/2005 :
Attorney Docket No. 42P21079 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 1/23/2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before 9/29/2007, as required by the Notice of Allowance and Fee(s) Due, mailed 6/29/2007. Accordingly, the date of abandonment of this application is 9/30/2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

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.

David A. Bucci
Petitions Examiner
Office of Petitions

cc: RAHUL D. ENGINEER
INTEL CORPORATION
1701 INTERVAIL DR., MS: AN1-PTL1
AUSTIN, TX 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/137,677	05/25/2005	Radhakrishnan P. Iyer	4011.3004 US4	6450

38473 7590 07/31/2009
ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford, MA 01886

EXAMINER	
EOM, ROBERT J	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
07/31/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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wk

Mailed: JUL 31 2009

In re application of Iyer et al. Serial No. 11/137,677 Filed: May 25, 2005 For: Reactor For Chemical Synthesis	:	DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on July 6, 2009 to withdraw the final status of the office action dated May 21, 2009.

A Final Office Action was mailed on May 21, 2009 whereby the Examiner issued two rejections under 35 USC 112, second paragraph (to claims 1 and 4) that were not previously of record in the application. Applicants assert that the amendments made in Applicants response dated February 19, 2009, did not necessitate a new ground of rejections in regards to the 35 USC 112 rejections.

A review of the record indicates that applicant amended claims 1, 4, 12 and added new claims 20-22. The Examiners previous office action of October 20, 2008 included 35 USC 102 and 103 rejections. After Applicants response and amendment to that office action (amendment filed February 19, 2009), the Examiner's office action while adding the additional 112(2) rejections also dropped the 35 USC 102 rejection and made a rejection under 35 USC 103 that now included the newly added claims and the claims that were amended.

There were substantive claim amendments and the Examiner's new grounds (both under 112(2) and 103) were necessitated by Applicants' amendment of February 19, 2009. Specifically the phrase "directly connected" (which forms the basis for the examiner's indefiniteness rejection) was added to claim 1 by the amendment of February 19, 2009. Likewise the asserted lack of antecedent basis for "conduit means" in claim 4 was created by the cancellation of claim 3, which previously provided the antecedent basis for this phrase. Consequently the new grounds of rejection were in fact necessitated by amendment.

DECISION

The petition for withdrawal of finality is **DENIED.**

The response period will continue to run from the mail date of the office action of May 21, 2009.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Darlene A. Vanstone
ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
DUNKO, Gregory A., et al.
Application No.: 11/137,731
Filed: May 25, 2005
Attorney Docket No.: 9314-114

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 23 2008

FASTH LAW OFFICES (ROLF FASTH)
26 PINECREST PLAZA, SUITE 2
SOUTHERN PINES, NC 28387-4301

In re Application of	:	
Guy SALOMON	:	
Application No. 11/137,737	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. 362.837CIP	:	FROM RECORD
	:	

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 7, 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 request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on December 31, 2007.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GUY SALOMON
SIBBLEVAGEN 8
147 92 GRODINGE
SWEDEN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

CONNOLLY, BOVE, LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

In re Application of :
F. Charles Wilkinson :
Application No. 11/ ,137,751 : DECISION ON PETITION
Filed: May 25, 2005 : TO WITHDRAW
Attorney Docket No. 13341-00001-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 September 19, 2007.

The request is **APPROVED**.

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

The request was signed by Patricia Smink Rogowski on behalf of all attorneys of record who are associated with customer No. 23416.

All attorneys/agents associated with the Customer Number 23416 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.

The application became abandoned for failure to timely respond to the Office action mailed July 3, 2007.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: F. CHARLES WILKINSON
C/O F. CHARLES WILKERSON, INC.
1165 OLD WILMINGTON ROAD
HOCKESSIN, DE 19707

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/137,751	05/25/2005	F. Charles Wilkinson	13341-00001-US

CONFIRMATION NO. 7273

POWER OF ATTORNEY NOTICE

23416
CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/19/2007.

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

/amwise/

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

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OCT 20 2005

CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 92704-3157

In re application of Robert D. Boydstun IV et al. Application No. 11/137,756 Filed: May 25, 2005 For: VEHICLE SUPPORT AND RETENTION SYSTEM FOR A VEHICLE TRANSPORTER	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on August 31, 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 (C) above. Regarding item (C), the petition fails to include the field of search listing the classes and subclasses searched.

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

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

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

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

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

RAR/dew: 10/19/05

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NOV 21 2005

CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 92704-3157

In re application of	:	**DECISION ON PETITION**
Robert D. Boydstun IV et al.	:	**TO MAKE SPECIAL**
Application No. 11/137,756	:	**(ACCELERATED**
Filed: May 25, 2005	:	**EXAMINATION)**
For: VEHICLE SUPPORT AND RETENTION SYSTEM FOR A VEHICLE TRANSPORTER	:	

This is in response to the renewed petition filed on October 31, 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 now been met, the petition is **GRANTED**.

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

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

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

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

KJD/dew: 11/04/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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BATTENFELD GLOUCESTER ENGINEERING CO., INC
18 PINCKNEY STREET
BOSTON, MA 02114

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OFFICE OF PETITIONS

In re Application of :
Nikolaus KRAMPF, et al. :
Application No. 11/137,762 : DECISION ON PETITION
Filed: May 25, 2005 : Under 37 CFR 1.137(b)
Attorney Docket No. **05BEX01** :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 Restriction Requirement, mailed July 10, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

The application is being referred to Technology Center Art Unit 1791 for consideration of the election filed April 6, 2009.

Brian W. Brown
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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DEC 31 2007

OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Etou, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 11/137,787	: AND NOTICE OF INTENT
Filed: May 26, 2005	: TO ISSUE
Patent No. 7,255,089	: CERTIFICATE OF CORRECTION
Issued: August 14, 2007	:

This is a decision on the "PETITION UNDER 37 C.F.R. 1.705(d) TO RECLAIM PATENT TERM ADJUSTMENT AND WAIVER OF FEE", filed September 7, 2007. This also responds to the letter, pursuant to applicants' duty of good faith and candor, filed May 17, 2007. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to forty-nine (49) days.

The application for patent term adjustment is **GRANTED**.

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **forty-nine (49) days**.

On April 23, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date was fifty (50) days. On May 17, 2007, Applicants submitted a letter regarding patent term adjustment pursuant to their duty of good faith and candor, asserting that the Office had accorded too many days of PTA.

The application issued into Patent No. 7,255,089 on August 14, 2007. Applicants were assessed delay of ninety (90) days for filing the candor letter. Patentees timely filed the instant request for reconsideration on September 7, 2007.

The Office determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of seventy-nine (79) days pursuant to U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by twenty nine (29) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and ninety (90) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(10). The adjustments of ninety (90) and twenty-nine (29) days are at issue.

Patentees point out that they were improperly assessed applicant delay of ninety (90) days for filing the candor letter on May 17, 2007. In addition, Patentees argue that the Office should have assessed additional days of applicant delay for a filing on March 30, 2007.

With respect to the ninety (90) days of applicant delay assessed for filing the application for patent term adjustment, pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, zero (0) days should have been assessed for this filing.

In addition, patentees should have been assessed additional days of delay. The Office mailed a non-final Office action on November 30, 2006. Applicants did not file a reply until March 30, 2007, not March 29, 2007 as indicated in PALM. Accordingly, applicant delay should have been assessed as thirty (30) days, not twenty-nine (29) days.

In view thereof, the correct determination of patent term adjustment is forty-nine (49) days (79 days of PTO delay, reduced by 30 days of applicant delay).

As the letter filed May 17, 2007 was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Patentees for their good faith and candor in bringing this to the attention of the Office. Given the basis for granting the request for reconsideration filed September 7, 2007, no additional fee is due.

The application file is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **forty-nine (49) days**.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,255,089 B2

DATED : August 14, 2007

INVENTOR(S) : Etou, et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0 days" and insert – by 49 days—

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of:	:	
Satou et al.	:	
Application No. 11/137,789	:	DECISION DISMISSING
Filed: May 26, 2005	:	PETITION UNDER
For: ROUGH ROAD DRIVE SIMULATION AND EVALUATION FOR VEHICLE CONTROL SYSTEM	:	37 CFR 1.47(a)

This is in response to the Petition Under 37 CFR § 1.47(a), filed August 23, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO Attorney Derek L. Woods. 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 May 26, 2005, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on June 23, 2005, requiring *inter alia*, a properly signed oath or declaration.

Applicant files the instant petition in response to the Notice, and the Declaration of Ikue Kosaka ("Kosaka Declaration"), in support of the petition. The Kosaka Declaration provides that on April 28, 2005, a letter was sent by certified mail to the nonsigning inventor's last known address. The letter was returned by the Japanese Post Office, indicating that the nonsigning inventor had moved to an unknown address. Petitioner

provides a translated copy of the return receipt. *Kosaka Declaration* at pp. 1-2.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. *See*, MPEP § 409.03(d).

Here, Applicant's provide that they mailed the application to the last known address of the nonsigning inventor, and conclude that diligent efforts have been made.

At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

In re Application of:	:	
Satou et al.	:	
Application No. 11/137,789	:	DECISION NOTING
Filed: May 26, 2005	:	JOINDER
For: ROUGH ROAD DRIVE SIMULATION AND EVALUATION FOR VEHICLE CONTROL SYSTEM	:	OF INVENTOR

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a), filed November 14, 2005, noting the joinder of the inventor.

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

The Declaration has been entered and made of record.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of :
Robert Tiernay :
Application No. 11/137,797 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 114944-00457 :

This is a decision on the petition, filed October 30, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

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 30, 2007. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

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 Fax: (571) 273-8300
ATTN: Office of Petitions

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of :
Robert Tiernay :
Application No. 11/137,797 : DECISION GRANTING PETITION
Filed: May 26, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 114944-00457 :

This is a decision on the renewed petition, filed January 22, 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 25, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2612 for examination in due course.

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/137,797	05/26/2005	Robert Tiernay	114944-00457

CONFIRMATION NO. 6643

27557
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

NONPUBLICATION RESCISSION LETTER

Date Mailed: 02/11/2008

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 05/22/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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OFFICE OF PETITIONS

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

In re Patent of Hogan et al.	:	DECISION ON REQUEST
Patent No. 7,589,184	:	FOR RECONSIDERATION OF
Issue Date: September 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/137,806	:	AND NOTICE OF INTENT TO
Filing Date: May 24, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. GENV-009/01US	:	CORRECTION

This is a decision on the petition filed November 16, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by eight hundred one (801) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by eight hundred one (801) days is **GRANTED to the extent indicated herein**.

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

Patentees contend the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 479 days. The Office has reviewed the record and agrees the period of B Delay is 479 days.

Patentees contend the number of days of overlap between the period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and period of B Delay is 0 days. The Office has reviewed the record and agrees the number of days of overlap between A Delay and B Delay is 0 days.

The Office mailed a Notice of Allowance on April 6, 2009. An amendment was filed July 6, 2009, and drawings were filed July 7, 2009. The Office entered a 1-day reduction for the amendment and a 71-day reduction for the drawings. Patentees contend the Office should not have entered a reduction for either paper.

Patentees assert the July 6, 2009 amendment was requested by the examiner and state a reduction is not warranted under 37 C.F.R. § 1.704(c)(8) when a paper is filed as a result of an express request by the examiner. However, the Office did not enter the reduction for the amendment under 37 C.F.R. § 1.704(c)(8). Instead, the reduction for the amendment was entered pursuant to 37 C.F.R. § 1.704(c)(10) which states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months.

37 C.F.R. § 1.704(c)(10) does not include an exception for papers filed as a result of an express request by an examiner. Therefore, the Office acted properly when entering a reduction for the amendment.

Patentees assert the July 7, 2009 amendment was requested by the examiner and state a reduction is not warranted under 37 C.F.R. § 1.704(c)(8) when a paper is filed as a result of an express request by the examiner. As previously stated, 37 C.F.R. § 1.704(c)(10) does not include an exception for papers filed as a result of an express request by an examiner. Even if a reduction was improper under 37 C.F.R. § 1.704(c)(10) if a paper was expressly requested by the examiner, the record fails to indicate the drawings were expressly requested by the examiner. Patentees state the "drawings filed 07-07-2009 were filed as a courtesy to the Examiner and merely provided additional copies of the same drawings filed on 07-06-2009." Patentees do not state the examiner requested the duplicate copy of the drawings.

For the reasons above, Patentees have failed to establish the papers filed July 6, 2009, and July 7, 2009, should not have resulted in any reduction in patent term adjustment.

Patentees contend, if a reduction is warranted for the amendment and drawings, the reduction should be 11 days, not 72 days.

On July 17, 2009, the Office mailed a Response to Rule 312 Communication stating, with emphasis in the original, "The amendment filed on *July 6 and 7, 2009* under 37 CFR 1.312 has been considered, and has been ... entered."

With respect to the July 7, 2009 drawings, the period of delay under 37 C.F.R. § 1.704(c)(10) is 11 days which is the number of days beginning July 7, 2009, the date the drawings were filed, and ending on July 17, 2009, the date the Office mailed a response to the drawings.

With respect to the July 6, 2009 amendment, the period of delay under 37 C.F.R. § 1.704(c)(10) is 12 days which is the number of days beginning July 6, 2009, the date the amendment was filed, and ending on July 17, 2009, the date the Office mailed a response to the amendment.

The 11-day period of delay resulting from the filing of the drawings falls completely within the 12-day period of delay resulting from the filing of the amendment. Therefore, the papers should have resulted in a total reduction of 12 days, not 72 days.

In view of the prior discussion, the patent term adjustment is 789 days which is the sum of 354 days of A Delay and 479 days of B Delay reduced by 44 (33 + 1 + 12) days of Applicant Delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **seven hundred eighty-nine (789)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,589,184 B2
ISSUE DATE	:	September 15, 2009
INVENTOR(S)	:	Hogan et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 375 days.

Delete the phrase "by 375 days" and insert - by 789 days--

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CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE10th FLOOR
STAMFORD, CT 06901-2682

MAILED

JAN 21 2010

OFFICE OF PETITIONS

In re Application of :
Jessica E. LEMAY, et *al.* :
Application No. 11/137,808 : DECISION GRANTING PETITION
Filed: May 25, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **460.2126USX** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 22, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

/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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080630

DATE : June 30, 2008

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction on Patent No.: 7,219,141

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

corrections ok

SPE: /nathan flynn/ Art Unit 2154

Docket No.
288086/0007
IGD:AEW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: **Vincent P. LaStella** Group Art Unit: **not yet assigned** 1743

Application No.: **not yet assigned** 11/137,817

Examiner: **not yet assigned**

Filed: **herewith, May 24, 2005**

For: **FECAL SAMPLING DEVICE AND METHOD**

Date: May 24, 2005

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

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

Sir:

Applicant respectfully requests that the above-identified application be made Special and advanced out of turn for Examination.

This Petition is submitted pursuant to 37 C.F.R. § 1.102 and M.P.E.P. § 708.02(X) ("INVENTIONS RELATING TO HIV/AIDS AND CANCER"), which provides that "the U.S. Patent and Trademark Office will accord 'special' status to patent applications relating to HIV/AIDS and cancer." Applicant respectfully submits that the present invention relates to the diagnosis and treatment of cancer, particularly cancer of the digestive tract, including colon and rectal cancer. More specifically, the present invention covers devices and methods for acquiring fecal or stool samples to be tested for the presence of blood. The improved devices and methods result in earlier, more reliable diagnosis of cancer, which results in improved success in lead treatment of the cancer.

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05/31/2005 MBELETE1 00000079 194709 11137817
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PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700 JUN 2 8 2005

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LEGAL STAFF
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DETROIT MI 48265-3000

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DEC 1 0 2007

OFFICE OF PETITIONS

In re Application of :
Grimes, et al. : DECISION ON PETITION
Application No. 11/137,825 :
Filed: May 25, 2005 :
Docket No.: GP-305354-PTE-CD :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 1, 2007.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed December 15, 2006. Notice of Abandonment October 4, 2007.

Petitioners assert that a response to the final Office action was timely submitted on March 16, 2007 and have provided as proof of submission and proof of USPTO receipt a copy of a Auto-Reply Facsimile dated March 16, 2007 acknowledging receipt of the reply. The response consisted of a request for continued examination (RCE), including submission, and authorization to charge the RCE fee as well any extension of time fee.

The original response filed March 16, 2007 has not been located in the application file. However, the evidence presented is most persuasive that a reply final Office action was in fact 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 required RCE fee and petition for one month extension of time fees have been charged to petitioners' deposit account as authorized.

The application file is being forwarded to the Technology Center 3700 for further processing of the Request for Continued Examination previously submitted.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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ADAMS & WILKS
17 BATTERY PLACE
SUITE 1231
NEW YORK NY 10004

In re Application of	:	
TAKAHASHI, MASANORI	:	
Application No.: 11/137846	:	DECISION ON
Filing or 371(c) Date: May 25, 2005	:	PETITION
Attorney Docket Number: **S004-5539**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed November 26, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed July 24, 2007.

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 inquiries concerning this matter should be directed to the undersigned at (703) 756-1500.

Kendrick Sprull
Application Assistance Unit
Office of Data Management

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United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Anna Maria Bofinger	: DECISION ON REQUEST FOR
Patent Number	: 7638214	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/137,848	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **916** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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SEP 2 8 2006
OFFICE OF PETITIONS

In re Application of
Hamming
Application No. 11/137,882
Filed: May 25, 2005
Attorney Docket No. 036263-000701

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 21, 2006.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mr. Mark Spolyar, Esq.
Spolyar Technology Law Group
2200 Ceasar Chavez Street
San Francisco, CA 94124

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

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OFFICE OF PETITIONS

In re Application of :
Heath, Charles L. II :
Application No. 11/137,902 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. CLH 05070 :

This is a decision on the petition under 37 CFR §1.102(d), filed August 22, 2005, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section 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 2875 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
HAMZAOGLU et al. :
Application No. 11/137,905 : DECISION ON PETITION
Filed: 05/25/2005 :
Attorney Docket No. 42P21499 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 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 January 16, 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 February 17, 2007. A Notice of Abandonment was mailed on July 30, 2007.

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

This matter is being forwarded to Technology Center AU 2824.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Werner Ulrich
501 Forest Avenue
Unit 406
Glen Ellyn, IL 60137-4175

Mail Date: 07/26/2010

Applicant	: Randall L. Brown	: DECISION ON REQUEST FOR
Patent Number	: 7646860	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/137,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1266** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE, CA 92606

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In re Application of	:	
Fabrice Jogand-Coulomb et al.	:	
Application No. 11/137,916	:	DECISION ON PETITION
Filed: May 26, 2005	:	TO WITHFRAW
Attorney Docket No. SDK-0626	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed May 23, 2008.

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

A review of the file record indicates that the power of attorney to the firm of Klein, O'Neill & Singh, LLP has been revoked by the assignee of the patent application on July 1, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: TOLER LAW GROUP
8500 BLUFFSTONE COVE, SUITE A201
AUSTIN TX 78759

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JERROLD J. LITZINGER
2134 MADISON ROAD
CINCINNATI OH 45208

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Fred J. TAYLOR	:	
Application No. 11/137,919	:	DECISION ON PETITION
Filed: May 26, 2005	:	
Attorney Docket No. **FT104.1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 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 November 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 14, 2007. Accordingly, the date of abandonment of this application is November 15, 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.

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 Tredelle Jackson at (571) 272-2783.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **NEAL O. WILLMANN**
P. O. BOX 42512
CINCINNATI, OH 45242

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
OLSON, et al.	:	
Application No. 11/137,925	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. **23368-09051**	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to *FENWICK & WEST LLP* has been revoked by the assignee of the patent application on April 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KLEIN O'NEILL & SINGH LLP**
43 CORPORATE PARK, SUITE 204
IRVINE, CA 92606

UNITED STATES PATENT AND TRADEMARK OFFICE

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24TH FLOOR, NATIONAL CITY CENTER
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CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Curtis Christman et al	:	
Application No. 11/137,943	:	DECISION ON PETITION
Filed: May 26, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.	:	
MS311446.01/MSFTP890US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 11, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35

U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of :
Maroney et al. :
Application No. 11/137,970 :
Filed: May 25, 2005 :
Attorney Docket No. ARAG0007 :

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 1, 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 Townsend and Townsend and Crew LLP, has been revoked by the assignee of the patent application on March 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 the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

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

In re Application of :
Chien-Hsuan, HAN, et al :
Application No. 11/138,008 : DECISION ON PETITION
Filed: May 26, 2005 : TO WITHDRAW
Attorney Docket No. 022424-003320US : FROM RECORD
:

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, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP, has been revoked by the assignee of the patent application on November 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT J. PARADISO, ESQ.
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

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OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of :
Radcliff :
Application No. 11/138,015 : DECISION ON PETITION
Filed: May 26, 2005 : TO WITHDRAW
Attorney Docket No. 30692/04000 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to CALFEE HALTER & GRISWOLD, LLP has been revoked by the applicant of the patent application on January 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 April Wise at 571-272- 1642.

for Denise Pothier
Petitions Examiner
Office of Petitions

cc: MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

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KENNETH T. EMANUELSON
PREMIER PLACE
SUITE 1450
5910 N. CENTRAL EXPWY.
DALLAS TX 75206

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of :
Price, Dennis C. :
Application No. 11/138,038 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 1403-1007 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 11, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City, UT 84110

Mail Date: 04/21/2010

Applicant	: Scott D. Miles	: DECISION ON REQUEST FOR
Patent Number	: 7578782	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 1450
5910 N. CENTRAL EXPWY.
DALLAS, TX 75206

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OFFICE OF PETITIONS

In re Application of :
Dennis C. Price :
Application No. 11/138,053 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 1403-1008 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed February 22, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 23, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

INNA S. LANDSMAN
7 GORDON RD.
ARLINGTON, MA 02474

In re Application of	:	
Kim, et al.	:	
Application No. 11/138,054	:	DECISION ON PETITION
Filed: May 26, 2005	:	TO WITHDRAW
Attorney Docket No. U0002/7000	:	FROM RECORD
	:	

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 9, 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 Inna S. Landsman on behalf of all attorneys of record who are associated with customer No. 35793.

All attorneys/agents associated with the Customer Number 35793 have been withdrawn.

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

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

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

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

April McGuire

Aril M. Wise
Petitions Examiner
Office of Petitions

cc: YONG KU KIM
15 FOX RUN TERRACE
DARTMOUTH, MA 02747

cc: PAUL ELIHU STERN
UNIVERSITY OF MASSACHUSETTS
OFFICE OF THE GENERAL COUNSEL
333 SOUTH STREET SUITE 400
SHREWBURY, MA 01545

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/138,054	05/26/2005	Yong Ku Kim	U0002/000

CONFIRMATION NO. 8161

OC000000020661452

OC000000020661452

35793
INNA S. LANDSMAN
7 GORDON RD.
ARLINGTON, MA 02474

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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P O BOX 10395
CHICAGO, IL 60610

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
Per-Reidar Larnholm et al :
Application No. 11/138,058 :DECISION ON PETITION
Filed: May 26, 2005 :UNDER 37 CFR 1.137(b)
Attorney Docket No. 12855/3 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2006, 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 reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 27, 2005, which required the submission of an executed oath or declaration and $130 surcharge for its late filing, $300 basic filing fee, $500 search fee, $200 examination fee, $400 for 2 independent claims over 3, and $1000 for 20 total claims over 20 (the total due being $2,530). 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 September 28, 2005. A Notice of Abandonment was mailed on March 16, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant

to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c).

The petition fails to satisfy item (1). In this regard, the oath or declaration is not acceptable since it fails to comply with the provisions of 37 CFR 1.63(c)(1) in that the mailing address (and the residence if the inventors live at a location which is different from where the inventors customarily receive mail) of each inventor. Accordingly, an executed oath or declaration complying with the provisions of 37 CFR 1.63(c)(1) or an Application Data Sheet in compliance with 37 CFR 1.76(b)(1) must be submitted to effect revival of this application.

It is noted that a change of address for this application was filed on September 28, 2005. However, the change of address was not entered because the attorney signing the request is not an attorney of record. Accordingly, if it is desired to have correspondence mailed to the address noted in the change of address and on the present petition to revive, the appropriate power of attorney documents must be submitted. If signed by an assignee, compliance with 37 CFR 3.73(b) must be satisfied. A courtesy copy of this decision is being mailed to the address on the petition. Until otherwise properly instructed, all future correspondence regarding this application will be mailed to the correspondence address above, which is the correspondence address provided at the time of filing this application.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

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
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
Per-Reidar Larnholm et al :
Application No. 11/138,058 :DECISION ON PETITION
Filed: May 26, 2005 :UNDER 37 CFR 1.137(b)
Attorney Docket No. ARSI-011 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 27, 2005, which required the submission of an executed oath or declaration and $130 surcharge for its late filing, $300 basic filing fee, $500 search fee, $200 examination fee, $400 for 2 independent claims over 3, and $1000 for 20 total claims over 20 (the total due being $2,530). 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 28, 2005. A Notice of Abandonment was mailed on March 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the items required by the Notice of June 27, 2005, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of June 27, 2005 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision accepting the unintentionally delayed reply to the Notice of June 27, 2005.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Per-Reidar Larnolm et al.	:	
Application No. 11/138,058	:	DECISION ON PETITION
Filed: May 26, 2005	:	TO WITHDRAW
Attorney Docket No. ARSI-011	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 2, 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 Bret E. Field and all attorneys/agents of record have been revoked by the assignee of the patent application on January 30, 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: Mike J. Amerson
Williams Morgan & Amerson
10333 Richmond Avenue
Suite 1100
Houston, TX 77042

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of

ZIMMEL, Steven
Application No. 11/138,063
Filed: May 25, 2005
Attorney Docket No. **2316.2114US01**

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 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 Sarah M. Monfeldt. The undersigned attorney has been withdrawn; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed December 27, 2006 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: **SARAH M. MONFELDT**
UNITED STATES PATENT & TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-145

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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Todd W. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7589500	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,070	: 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 **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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In re Application of :
Coca Iordache-Cazana et al. :
Application No. 11/138,077 : DECISION ON PETITION
Filed: May 25, 2005 : TO WITHDRAW
Attorney Docket No. SMAR-046 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 10, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Brian G. Kingwell does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Therefore, there is no authority to sign the request to withdraw on behalf of Bret E. Field and attorneys/agents associated with the firm of Bozicevic, Field & Francis, LLP, who are of record.

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

A Notice of Allowance was mailed on February 8, 2008. Failure to pay issue fees by the established due date will result in the abandonment of this application.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James A. Mitchell
Price, Heneveld, Cooper, DeWitt and Litton
P.O. Box 2567
695 Kenmoor
Grand Rapids, MI 49501

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OFFICE OF PETITIONS

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

In re Patent No. 7,546,270 :
Caijiao Zhao : DECISION DISMISSING
Application No. 11/138,081 : REQUEST FOR
Issue Date: June 9, 2009 : RECONSIDERATION OF
Filed: May 25, 2005 : PATENT TERM ADJUSTMENT
Atty. Docket No. 037607-0219 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed August 6, 2009, which is properly treated pursuant to 37 CFR 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from five hundred sixty-eight (568) days to one thousand eighteen (1,018) days.

Preliminarily, patentee requests that the Office defer or delay a decision on this request for reconsideration until a final decision has been rendered in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120. However, the Office notes that there is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 568 days.

BACKGROUND

This application was filed on May 25, 2005. On June 9, 2009, the application matured into U.S. Patent No. 7,546,270, with a revised patent term adjustment of 568 days. The Office determined that the 380 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[1] overlaps with the 569

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

days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[3] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 569 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. The patent issued with a revised patent term adjustment of 568 days (569 days of Office delay - 1 day of applicant delay.)

On August 6, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee),

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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:

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

[2] A non-final Office action was mailed on February 14, 2008, 14 months and 569 days after the application was filed on May 25, 2005.

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

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

asserting that the correct number of days of Patent Term Adjustment is 1,018 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1,019 (569 + 450) days as these periods do not occur on the same day. Patentee asserts entitlement to 1,018 (Office delay of 569 + 450 days - applicant delay of 1 day) days of patent term adjustment.

OPINION

The Office notes that that patentee incorrectly calculated the period of adjustment under 37 CFR 1.702(b) as 450 days. Furthermore, patentee used the incorrect number of 450 days in calculating the requested patent term determination of 1,018 (569 + 450 - 1) days. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 380 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 26, 2008, and ending on the patent issued, June 9, 2009.

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

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

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

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), May 25, 2005, and ending on the date the patent issued, June 9, 2009,(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 569 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 380 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 380 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 569 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 569 days and the 380 days is neither permitted nor warranted. 569 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 568 days of patent term adjustment (569 days of Office delay - 1 day of applicant delay).

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 568 days.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MILWAUKEE, WI 53202-5306

Mail Date: 04/21/2010

Applicant	: Caijiao J. Zhao	: DECISION ON REQUEST FOR
Patent Number	: 7546270	: RECALCULATION of PATENT
Issue Date	: 06/09/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **948** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Mitchell Anthony Delong et al	:	
Application No. 11/138,097	:	DECISION GRANTING PETITION
Filed: May 26, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 028193-9012-02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 18, 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 1617 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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P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: David W. Skiles	: DECISION ON REQUEST FOR
Patent Number	: 7621701	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,104	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DEC 01 2005

FULBRIGHT & JAWORSKI, L.L.P. (ANS)
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Application of	:	
Charles H. Kappauf	:	
Serial No.: 11/138,119	:	DECISION ON PETITION
Filed: May 26, 2005	:	
For: Method and Apparatus for Adapting Clothing to Allow Access for Medical Procedures	:	

This is in response to applicants' petition filed May 26, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(a), based on applicant's health condition.

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

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

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

Frederick R. Schmidt, Director
Technology Center 3700

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David J. Muzilla
Hahn Loeser & Parks, LLP
One GOJO Plaza
Suite 300
Akron, OH 44311

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MAR 28 2006

Group 3700

In re Application of :
Vitantonio, et al. :
Serial No. 11/138,139 : DECISION ON PETITION
Filed: May 26, 2005 : TO MAKE SPECIAL

For: A SYSTEM AND METHOD FOR STORING A PRODUCT IN A THERMALLY STABILIZED STATE

Applicant's petition, filed March 10, 2006, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700
571-272-3750

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/138,174	05/26/2005	Shigeyuki Kitazawa	KON- 2004

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

DATE MAILED: November 22, 2006

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

This is in response to the petition under 37 CFR 1.138(d) filed on November 15, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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

Mail Date: 05/06/2010

Applicant	: Uwe Rass	: DECISION ON REQUEST FOR
Patent Number	: 7664280	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/138,177	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
James, et al. :
Application No. 11/138,194 : DECISION ON PETITION
Filed: May 26, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 014811. 431.108 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 8, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1654 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/138,194	05/26/2005	1654	3280	014811-431.108	58	1

CONFIRMATION NO. 8598

CORRECTED FILING RECEIPT

24239
MOORE & VAN ALLEN PLLC
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Research Triangle Park, NC 27709

Date Mailed: 05/24/2010

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)

Kenneth D. James, Mebane, NC;
Balasingham Radhakrishnan, Chapel Hill, NC;
Navdeep B. Malkar, Cary, NC;
Mark A. Miller, Raleigh, NC;
Nnochiri N. Ekwuribe, Cary, NC;

Power of Attorney:
Marianne Fuierer--39983
William Barrett--42296
Tristan Fuierer--52926

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/574,436 05/26/2004
and is a CIP of 10/723,933 11/26/2003 PAT 7,662,773
which claims benefit of 60/429,151 11/26/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/138,194**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Natriuretic compounds, conjugates, and uses thereof

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).

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555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of :
Feng Lin :
Application No. 11/138,206 : DECISION GRANTING PETITION
Filed: May 26, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MTI-31271-C :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 5, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[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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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Patton Boggs)
1 Becton Drive MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 06/21/2010

Applicant	: Chad Adams	: DECISION ON REQUEST FOR
Patent Number	: 7635352	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/138,215	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **985** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TECHNOLOGY CENTER 3600

Stephen Palan
Crowell & Moring LLP
Intellectual Property Group
P. O. Box 14300
Washington, D.C. 20044-4300

Paper No. 12062007

In re application of
Albin J. Hillmantel
Application No. 11/138,217
Filed: May 27, 2005
For: SYSTEM AND METHOD FOR ORIENTING ARTICLES

: **DECISION ON PETITION**
: **REGARDING REQUEST TO**
: **WITHDRAW FINALITY**
: **UNDER 37 CFR 1.181**

This is in response to applicant's petition filed under 37 CFR 1.181 filed October 18, 2007 requesting withdrawal of finality of the Office action mailed October 16, 2007 as being premature.

The Petition is **GRANTED**.

Applicant alleges that the final rejection mailed October 18, 2007 is premature and should be withdrawn because the final rejection included new grounds of rejection that were not made in the first office action and that were not necessitated by applicant's amendment.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR .97(c) with the fee set forth in 37 CFR 1.17(p).

A summary of the examiner's Office actions and of applicant's responses is as follows:

1. A first office action was mailed March 26, 2007 rejecting claims 1-18 and 26 under 35 USC 102(b) as being anticipated by McClurkin and claims 1, 2 and 4-18 under 35 USC 102(b) as being anticipated by Schiesser et al.

2. Applicant's response filed July 26, 2007, amended claim 1 by cancelling claim 9 and adding the language of claim 9 to claim 1, cancelling claims 16-25 and adding the language of claims 16 and 17 to independent claim 12, adding claims 27-37 and argued the propriety of the prior art rejections.

3. A second, final office action was mailed October 16, 2007, rejecting claims 1-8, 10, 11 and 26 under 35 USC 102(b) as being anticipated by McClurkin; rejecting claims 1, 2, 4-8, 10-15 and 26-37 under 35 USC 103 over Schiesser et al.; and rejecting claims 12-15 and 27-37 under 35 USC 103 over McClurkin.

4. On October 18, 2007 applicant filed a petition requesting withdrawal of the finality of the final rejection mailed October 16, 2007.

After careful review of the above facts, the 35 USC 103 rejections in the final office action were indeed new grounds of rejection not presented in the first office action. Since Applicant merely amended the claims to include elements of dependent claims the new grounds of rejection in the final office action were not necessitated by Applicant's amendments.

Hence applicant's petition to withdraw the finality of the Office action mailed October 16, 2007 is **GRANTED**.

Accordingly, the finality of the Office action mailed October 16, 2007, but not the action itself, is hereby vacated. The record will be corrected to show the office action mailed October 16, 2007 is a non-final office action and applicant's period for response will remain the time period set in the office action mailed October 16, 2007.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

Katherine Matecki

Katherine Matecki
Director
Technology Center 3600
[/GC: 12/5/07]

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JURGEN VOLLRATH
588 SUTTER STREET # 531
SAN FRANCISCO CA 94102

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APR 12 2010

OFFICE OF PETITIONS

In re Application of :
Vladislav VASHCHENKO et al. :
Application No. 11/138,221 : DECISION ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. **P06277** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 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 October 27, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 27, 2009. Accordingly, the date of abandonment of this application is October 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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KIRTON & MCCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
PO BOX 45120
SALT LAKE CITY UT 84111

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of :
Kendall W. Prince, Jack R. Prince, : DECISION ACCORDING STATUS
Matt A. Stott : UNDER 37 CFR 1.47(a)
Application No. 11/138,225 :
Filed: May 26, 2005 :
Attorney Docket No. 11640.14

This is in response to the petition under 37 CFR 1.47(a), filed November 14, 2005.

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

Petitioner has shown that non-signing inventor Jack R. Prince refused to sign the declaration after having been presented with the application papers (specification, claims, drawings).

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Effective December 8, 2004, the fee for a petition under 37 CFR 1.47 was increased to $200. Petitioner submitted $130. Accordingly, $70 has been charged to Deposit Account No. 50-0843, as authorized.

The application file is being forwarded to Group Art Unit 3637 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JACK R PRINCE
968 NORTH 800 WEST
WEST BOUNTIFUL UT 84087

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of :
Kendall W. Prince, Jack R. Prince, :
Matt A. Stott :
Application No. 11/138,225 :
Filed: May 26, 2005 : LETTER
Title: Methods and Systems of Interior Window Framing

Dear Mr. Prince:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Berne S. Broadbent
Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
801-328-3600

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In re Application of
George Samuel Levy

Application No. 11138230

Filed: May 25,2005

Attorney Docket No. 050501

:
:
:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 05-MAY-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

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

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

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Yamashita et al.	:	
Application No. 11/138,234	:	DECISION GRANTING PETITION
Filed: May 25, 2005	:	
Attorney Docket No. 16869S-151000US	:	

This is a decision on the petition entitled "Petition to Withdraw Request for Omitted Figure," filed August 22, 2005.

On May 25, 2005, applicants filed the above-identified application. On June 28, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of May 25, 2005, and advising applicants that Figures 15 described in the specification appeared to have been omitted. Additionally, the Notice required an executed oath or declaration and a surcharge for its late filing.

In response, on August 22, 2005, applicants submitted the present petition, a copy of Figure 15, an executed declaration, and an authorization to charge the Deposit Account for the $130.00 surcharge and the $400.00 petition fee. Applicants asserted that they filed Figure 15 with the original application papers. In support of the assertion, applicants submitted a copy of their returned, date-stamped postcard receipt, acknowledging receipt of 10 sheets of drawings in the USPTO on May 25, 2005.

Upon review of the record, Figure 15 has been located among the application papers. Therefore, the application will be accorded a filing date of May 25, 2005, with Figure 15 as part of the original disclosure.

Accordingly, the petition is granted.

The request for the submission of Figure 15 was sent in error and is hereby withdrawn. Accordingly, the $400.00 petition fee is unnecessary and will be credited to applicants' Deposit Account.

The Office of Initial Patent Examination is directed to **accord the above-identified application a filing date of May 25, 2005,** using the 10 sheets of drawings submitted on filing (including Figure 15).

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed: April 2, 2009
Patent No. : 7,449,695 B2
Ser. No. :11/138246
Inventor(s) :David A. Zimdars, et al.
Title :TERAHERTZ IMAGING SYSTEM FOR EXAMINING ARTICLES

Request for Certificate of Correction

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

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

In view of the foregoing, your request in this matter is hereby denied.
A certificate of correction will issue for the remaining errors noted in your request.

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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

John A. Lingl
Brinks Hofer Gilson & Lione
P.O. Boc 10395
Chicago, IL 60610

MD/mt

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524 SOUTH MAIN STREET
SUITE 200
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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,449,696	:	
Issue Date: 11 November, 2008	:	
Application No. 11/138,246	:	ON PETITION
Filed: 26 May, 2005	:	
Attorney Docket No. 10555-101	:	

This is a decision on the petition filed on 31 May, 2009, treated as a request under 37 C.F.R. §3.81(b)[1] and §1.323 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 "Picometrix, LLC"

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

Patent and Trademark Office assignment records disclose that an assignment to Picometrix, LLC was recorded on 23 August, 2005, at Reel/Frame 016658/0144. Thereafter the patent issued, as indicated above, on 11 November, 2008. (*See*, generally in this regard: MPEP §307.) Petitioner states that the correct assignee's name is Picometrix, LLC. and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee.

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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

The regulations at 37 C.F.R. §3.81(b), effective June 25, 2004, provide:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in .§1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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.

Accordingly, because the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

---

[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).

Patent No. 7,449,696
Application No. 11/138,246

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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PO BOX 747
FALLS CHURCH, VA 22040-0747

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AUG 1 1 2008

In re Application of	:	
OSAWA, et al.	:	
Application No. 11/138,264	:	DECISION GRANTING PETITION
Filed: May 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1248-0785PUS1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 8, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on July 9, 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 2617 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/138,277	05/27/2005	Steven Schraga	P27605	8743

7055 7590 03/04/2010

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
HOEKSTRA, JEFFREY GERBEN

ART UNIT	PAPER NUMBER
3736	

NOTIFICATION DATE	DELIVERY MODE
03/04/2010	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):

gbpatent@gbpatent.com
pto@gbpatent.com

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of:
SCHRAGA, STEVEN
Serial No.: 11/138,277
Filed: May 27, 2005
Docket: P27605
Title: DISPOSABLE LANCET DEVICE CAP WITH INTEGRAL LANCET AND/OR TEST STRIP AND TESTING DEVICE UTILIZING THE CAP

DECISION ON PETITION

This is a decision on the petition filed on February 17, 2010 by which petitioner requests withdrawal of the election of species requirement of November 19, 2008 and made FINAL in the Office action dated June 9, 2009. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181. No fee is required for the petition.

The petition is **GRANTED**.

The relevant record shows that:

1) On November 19, 2008, the examiner issued a restriction requirement grouping claims 1-28, 30-43 and 45-48 (Group I) to a lancet device cap apparatus for a testing device or glucose meter and claims 29, 44 and 49 (Group II) to a process of puncturing skin. An election of species was further required among Species A-H, respectively. The corresponding figures are listed in the restriction requirement mailed on November 19, 2008.
2) In response, on March 30, 20009, the applicant made an election with traverse and elected Group I Invention and Species C, Figs. 18-21 and informed the examiner that claims 1-28, 30-43 and 45-48 are readable on the elected Invention I and Species C.
3) On June 9, 2009, the examiner made the restriction requirements final in a non-final Office action. The examiner disagreed with the applicant's election of clams 1-28, 30-43 and 45-48 and held claims 8-12 were not readable on the elected Species C, Figs. 18-21. The examiner withdrew claims 8-12 from consideration because they are deemed to be directed to non-elected Species Inventions. Claims 1-7, 13-18, 20-27, 30-35, 37-40, 42, 46 and 47 were treated on the merits in the

non-final Office action of June 9, 2009. In addition, claims 19, 26, 28, 29, 36, 41, 42, 48 and 49 were withdrawn from consideration due to non-elected Invention and Species.

4) On October 22, 2009, the applicant filed an amendment to the non-final Office action of June 9, 2009 with substantial amendments to the elected claim, 1, 30 and 45. The applicant again traversed the restriction requirements. In particular, the applicant argued, *inter alia*, at least the withdrawal of dependent claims 8-12 is improper because the claims do read on the elected Species C, Figs. 18-21.

5) On December 17, 2009, the examiner issued a final rejection and maintained the withdrawal of dependent claims 8-12 as not readable on the elected Species C, Figs. 18-21.

6) On January 17, 2010, the petitioner filed the current petition to request withdrawal of the election of species requirement of November 19, 2008 so that claims 8-12 may be rejoined. Petitioner specifically points out that the election of specie was not proper because petitioner believes that dependent claims 8-12 do read on the elected Species C, Figs. 18-21. Therefore, the election of species requirement should be withdrawn.

Discussion and analysis

It is noted in the petition, petitioner did not argue the restriction requirement between process and apparatus under MPEP § 806.05(e). A review of the restriction requirement does not show any error. The restriction requirement of November 19, 2008 between two inventions is proper and in compliance with the rules and regulations. Therefore, the restriction requirement between process and apparatus will not be disturbed and remains unchanged.

A review of the record shows that the applicant has not admitted on the record that the Species A-H are not patentably distinct or identify any evidence showing the species to be obvious variants (see second paragraph of page 6 of the Office action of November 19, 2008). Since the claims directed to the Species are patentable over each other, then, the election of species requirement of November 19, 2008 is proper. However, in the petition, petitioner argues that the elected claims 8-12 do read on the elected Species C, Figs. 18-21. With regard to the election of species requirement, petitioner argues that the cap in the elected species Figs. 18-21 does use "a test strip like that of the embodiment of Fig. 1". This is supported by the disclosure in Paragraph 51 of the specification. However, the examiner disagreed for the reasons as stated in the Paragraph 5 of the final rejection of December 17, 2009. As pointed out by the applicant, the specification description of the elected drawings must be reviewed collectively. One skilled in the art could broadly interpret the subject matter of claims 8-12 as supported by Paragraph 51 of the original specification.

After consulting with the examiner, it was agreed that the non-elected claims 8-12 should be rejoined. The examiner will treat the non-elected claims 8-12 on the merits because the applicant has indicated that claims 8-12 are readable on the elected Species C, Figs. 18-21. Therefore, the requested relief as to rejoinder of claims 8-12 is granted.

It must be noted that this decision does not address the sufficiency and adequacy of the specification for the purposes of patentability determination of the claims 8-12.

Conclusion

For the reasons outlined above, the restriction requirement between the method claims 29, 44 and 49 and apparatus claims 1-28, 30-43 and 45-48 and the election of species requirement imposed in the November 19, 2008 Office action and made final in the June 9, 2009 Office action are in accordance with proper Office procedure. Accordingly, the restriction requirements are proper. In view of the arguments presented in the petition, the requested relief to rejoin the dependent claims 8-12 is granted.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3736 for consideration of Rule 116 amendment of February 17, 2010. The examiner is requested to treat the withdrawn dependent claims 8-12 along with reexamination of the presently rejected claims 1-7, 13-18, 20-27, 30-35, 37-40, 42 and 45-47. Other non-elected claims remain withdrawn from consideration.

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

The petition is granted.

for

Donald T. Hajec, Director
Technology Center 3700

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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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SEP 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,524,867	:	
Lange, et al.	:	DECISION DISMISSING
Application No. 11/138,289	:	REQUEST FOR
Issue Date: April 28, 2009	:	RECONSIDERATION OF
Filed: May 27, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 01975.0072	:	UNDER 37 CFR 1.705

This is in response to the DETERMINATION OF PATENT TERM ADJUSTMENT-PRE-GRANT filed March 12, 2009. The petition is properly treated under 37 CFR 1.705(d).

Patentees request that the determination of patent term adjustment be corrected from four hundred eighty (480) days to five-hundred fifty-one (551) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 480 days.

BACKGROUND

This application was filed on May 27, 2005. On August 6, 2008, a Request for Continued Examination under 37 CFR 1.114 (RCE) was filed. On April 28, 2009, the application matured into U.S. Patent No. 7,524,867, with a revised patent term adjustment of 480 days. The Office determined that the 71 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1] overlaps with the 480 days of Office delay pursuant to 35 U.S.C.

[1] As of the filing of the RCE on August 6, 2008, the application was pending three years and 71 days.

154(b)(1)(A) and 37 CFR 1.702(a)(1)[2,3] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 480 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 0 days, the patent issued with a revised patent term adjustment of 480 (480 - 0) days.

On March 12, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 551 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Specifically, patentees state that:

> The three year pendency date for determination of patent term adjustment for this application was May 27, 2008. A Request for Continued Examination (which terminates any additional accrual of patent term adjustment for pendency beyond three years was filed on August 6, 2008. The issue fee for this application was paid on March 12, 2009. Thus, under Wyeth v. Dudas, a second USPTO delay of 71 days—corresponding to the days between the three year pendency date and the date the Request for Continued Examination was filed—has accrued.

Determination of Patent term Adjustment-Pre-Grant, filed March 12, 2009, p. 2

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[2] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

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

[3] A restriction requirement was not mailed until November 19, 2007, fourteen months and 480 days after the application filing date of May 27, 2005.

OPINION

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

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

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

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

---

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

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

> additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), May 27, 2005, and ending on the date of filing of a request for continued examination (RCE), August 6, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 480 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),71 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 71 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 480 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 480 days and the 71 days is neither permitted nor warranted. 480 days is the actual number of days issuance of the patent was delayed.

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

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 480 days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Michael J Keenan
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED JUN 26 2006

In re Application of: NOCE
Appl. No.: 11/138,310
Filed: May 27, 2005
For: NASAL DILATOR

: DECISION ON PETITION to
: make SPECIAL under 37 CFR
: 1.102

This is a decision on the petition filed on October 6, 2005 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is DISMISSED.

In support of the petition, petitioner provides a) the applicable fee/authorization to charge a deposit account; b) a statement regarding restriction; c) a statement that a pre-examination search has been made in Class 128 , subclasses 200.24, 207.18 and class 606 subclasses 199 and 204.45; d) a discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII) (a), (b) and (c) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII) (d) and (e).

MPEP § 708.02(VIII)(d) requires petitioner to submit a copy of each of the references deemed most closely related to the claimed subject matter. In the instant petition, petitioner refers to July 6, 2005 and August 4, 2005 submitted Information Disclosure Statements (IDS) listing the prior art uncovered in the pre-examination search. Review of these papers shows no copies were provided with the July 6, 2005 IDS. Because the petition does not contain the required submission, it fails to meet the requirements MPEP § 708.02(VIII)(d).

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Petitioner provides only brief general summaries of the prior art listed. No discussion is seen of the claim language or any relation between the prior art and the claim language. To meet the requirements of 37 CFR § 1.111 (c), each independent claim must be compared with each reference, and the patentable novelty in each independent claim relative to each reference must be clearly pointed out. Because the petition does not point out the specific language in each independent claim that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide: copies of the prior art deemed most closely related to the claimed invention and a detailed discussion of the references as outlined hereinabove.

Any inquiry regarding this decision should be directed to J. Harrison at 571-272-4449.

Petition DISMISSED

_____

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

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OFFICE OF PETITIONS

In re Application of :
NOCE :
Application No. 11/138,310 : DECISION ON PETITION
Filed: May 27, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 716-8 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 11, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the driver's license of Louis O. Noce, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3743 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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P.O. BOX 320850
ALEXANDRIA, VA 223320-4850

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AUG 2 2 2008

In re Application of	:	
Michael C. Mongeon	:	
Application No. 11/138,340	:	DECISION ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. 123426	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 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 April 4, 2008, as required by the Notice of Allowance and Fee(s) Due mailed January 4, 2008. Accordingly, the date of abandonment of this application is April 5, 2008. A Notice of Abandonment was mailed April 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 payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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FALLS CHURCH VA 22041

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APR 23 2008

In re Application of
Shih Cheng
Application No. 11/138,371
Filed: May 27, 2005
Attorney Docket No.: BHT-3101-275

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2008 to revive the above-identified application. This decision also responds to the petition to expedite filed March 19, 2008under 37 CFR 1.182.

The petition under 37 CFR 1.137(b) is **GRANTED**.
The petition under 37 CFR 1.182 is **GRANTED**.

The application became abandoned on December 27, 2007, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed September 26, 2007, which set a three (3) month statutory period for reply. Petitioner filed an Issue Fee Transmittal on December 26, 2007 with a check in the amount of $1020.00, for the amount of the issue fee and publication fee. When the USPTO attempted to collect the funds, the check was returned by the bank it was drawn on as insufficient funds were in the account to satisfy the disbursement. As the issue fee was not timely paid, the application became abandoned. Accordingly, a Notice of Abandonment was mailed January 25, 2008.

Petitioner's deposit account no. 50-1874 has been debited in the amount of $50 for the insufficient fees charge.

The issue fee and publication fee in addition to the petition fees have been paid. All other requirements having been met, this matter is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUL 0 8 2005
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OFFICE OF PETITIONS

In re Application of :
Terry Knoblock, Gregory G. Carlson, :
Mike Golobay and Willis Mason : DECISION GRANTING PETITION
Application No. 09/995,193 : UNDER 37 CFR 1.47(a)
Filed: November 27, 2001 :
Title: METHOD, SYSTEM AND PROGRAM PRODUCT THAT UTILIZE A HIERARCHICAL CONCEPTUAL FRAMEWORK TO MODEL AN ENVIRONMENT CONTAINING A COLLECTION OF ITEMS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 15, 2002.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MIKE GOLOBAY
3733 BLUE TRACE LANE
DALLAS, TX 75244

COPY MAILED
AUG 29 2002
OFFICE OF PETITIONS

In re Application of
Terry Knoblock, Gregory G. Carlson, Mike Golobay and Willis Mason
Application No. 09/995,193
Filed: November 27, 2001
Title: METHOD, SYSTEM AND PROGRAM PRODUCT THAT UTILIZE A HIERARCHICAL CONCEPTUAL FRAMEWORK TO MODEL AN ENVIRONMENT CONTAINING A COLLECTION OF ITEMS

Dear MIKE GOLOBAY:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET, NW
WASHINGTON, DC 20036

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

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OFFICE OF PETITIONS

In re Application of	:	
Masaki Ono, et al.	:	
Application No. 11/138,426	:	DECISION GRANTING PETITION
Filed: May 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q86528	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 20, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 31, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642

This application is being referred to Technology Center AU 2883 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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4/6/09

Patent No. :7508376
Ser. No. :11/138436
Inventor(s) :Toshinori Takatsuka et al.
Issued : 3/24/09
Title : KEY SHEET FOR POINTING DEVICE AND POINTING DEVICE
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

TOMOKO NAKAJIMA
CERMAK KENEALY VAIDYA & NAKAJIMA LLP
515 EAST BRADDOCK ROAD
ALEXANDRIA, VA 22314

HR

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CERMAK KENEALY VAIDYA & NAKAJIMA LLP
515 EAST BRADDOCK RD SUITE B
Alexandria VA 22314

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,508,376 :
Issue Date: March 24, 2009 :
Application No. 11/138,436 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. 1002-0002 :

This is a decision on the statement in support of Request for Certificate of Correction filed April 8, 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**.

The $130 fee for the petition under 37 CFR 3.81 has been charged to petitioner's deposit account as authorized.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

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CERMAK KENEALY VAIDYA & NAKAJIMA LLP
515 EAST BRADDOCK RD SUITE B
Alexandria VA 22314

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NOV 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,508,376 :
Issue Date: March 24, 2009 :
Application No. 11/138,436 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. **1002-0002** :

This is a corrected decision on the petition filed October 14, 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**.

Petitioner states that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

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

The 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

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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.
11/138,470	05/27/2005	Masaru Kawabata	SON-3315	9278

7590 02/27/2008

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

EXAMINER	
VU, NGOC YEN T	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
02/27/2008	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.

L. Fletcher

Patent Publication Branch
Office of Data Management

Adjustment date: 02/29/2008 KKING1
05/31/2005 SMINASS1 00000079 180013 11138470
02 FC:1111 500.00 CR

03500.109286 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	)	
	:	Examiner: Euncha P. Cherry
YUICHI TOMIOKA	)	
	:	Art Unit: 2872
Appln. No.: 11/138,479	)	
	:	Conf. No.: 9972
Filed: May 27, 2005	)	
	:	
For: MULTI-BEAM OPTICAL SCANNING APPARATUS AND IMAGE FORMING APPARATUS USING THE SAME	)	
	:	
U.S. Patent No.: 7,271,942 B2	)	
	:	
Issued: September 18, 2007	)	February 4, 2008

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

CERTIFICATE OF CORRECTION
UNDER RULES 322 AND 323

Sir:

It is respectfully requested that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of Patent and Trademark Office mistakes, and mistakes of a clerical, typographical, or minor character, which were not the fault of the Patent and Trademark Office. A Certificate of Correction form is attached.

The amount of $100.00 to cover the statutory fee for such Certificate of Correction is being paid concurrently; please charge any deficiency in this fee, and credit any overpayment, to Deposit Account 50-3939.

Patentee's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Elizabeth F. Holowacz/
Elizabeth F. Holowacz
Attorney for Patentee
Registration No. 42,667

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,271,942 B2

DATED : September 18, 2007

INVENTOR(S) : YUICHI TOMIOKA

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

COLUMN 1

Line 23, "optically" should read --is optically--.

COLUMN 2

Line 9, "with-changes" should read --with changes--; and
Line 21, "perpendicular-to" should read --perpendicular to--.

COLUMN 3

Line 9, "interval di" should read --interval d1'--; and
Line 20, "14bi n" should read --14b in--.

COLUMN 4

Line 10, "coefficient" should read --coefficient.--; "illuminance" should read --Illuminance--; and
Line 13, "has" should read --have--.

COLUMN 5

Line 66, "light-amount" should read --light amount--.

COLUMN 7

Line 5, "potions" should read --portions--;
Line 18, "become" should read --becomes--; and
Line 24, "and to increase" should read --thereby increasing--.

MAILING ADDRESS OF SENDER:
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30 Rockefeller Plaza
New York, New York 10112-3801
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PATENT NO. US 7,271,942 B2

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,271,942 B2

DATED : September 18, 2007

INVENTOR(S) : YUICHI TOMIOKA

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

COLUMN 8

Line 25, "surface-to" should read --surface to--;
Line 53, "the-center" should read --the center--; and
Line 58, "optically" should read --which optically--.

COLUMN 10

Line 29, "$0.9 \leqq |B1'/A1'| \leqq 1.1, 0.9 \leqq |B2'/A2'| \leqq 1.1$, (1)" should read --$0.9 \leqq |B1'/A1'| \leqq 1.1, 0.9 \leqq |B2'/A2'| \leqq 1.1$, (1)'--.

COLUMN 11

Line 19, "that" should read --to one in which--; and
Line 38, "means, however," should read --means. However,--.

COLUMN 13

Line 3, "main," should read --main--;
Line 11, "Y=0," should read --Y=0.--;
Line 14, "as-shown" should read --as shown--; and
Line 33, "lasers and B" should read --lasers A and B--.

COLUMN 17

Line 18, "to-simultaneously" should read --to simultaneously--;
Line 28, "corrected," should read --corrected.--; and
Line 29, "therefore," should read --Therefore,--.

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,271,942 B2

DATED : September 18, 2007

INVENTOR(S) : YUICHI TOMIOKA

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

COLUMN 18

Line 1, "that" should be deleted;
Line 46, "monolithic-multi-beam" should read --monolithic multi-beam--; and
Line 64, "Also;" should read --Also,--.

COLUMN 20

Line 20, "become" should read --becomes--;
Line 21, "becomes" should read --become--.

COLUMN 21

Line 51, "linearly-" should read --linearly--.

MAILING ADDRESS OF SENDER:
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30 Rockefeller Plaza
New York, New York 10112-3801
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PATENT NO. US 7,271,942 B2

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,271,942 B2

DATED : September 18, 2007

INVENTOR(S) : YUICHI TOMIOKA

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

COLUMN 22

Line 32, "surfaces" should read --surface,--; and
Line 62, "claim 10;" should read --claim 1;--.

MAILING ADDRESS OF SENDER:
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January 23, 2007

Howard L. Bernstein
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

Patent No.: 7129137 B2
Application No.: 11/138481
Inventor(s): **Hiroki Matsumoto**
Issued: **October 31, 2006**
Title: **METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE HAVING MULTIPLE GATE OXIDE FILMS**

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) 273-0025 ATTN: Office of Petitions

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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United States Patent and Trademark Office
P.O. Box 1450
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SUITE 800
WASHINGTON DC 20037

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DEC 18 2007

OFFICE OF PETITIONS

In re Patent No. 7129137	:	
Issue Date: 10/31/2006	:	
Application No. 11/138481	:	ON PETITION
Filed: 05/27/2005	:	
Attorney Docket No. Q88129	:	

This is a decision on the petition filed August 15, 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) 272-3231. 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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JUL 31 2008

OFFICE OF PETITIONS

In re Application of :
Trygar :
Application No. 11/138,515 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 10724.09474 :

This decision addresses (1) the petition under 37 CFR 1.48(a) to delete Joseph Trygar as an inventor and add Jerral Richardson and Brandon Richardson as joint inventors, (2) the petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2), which requires a statement from each person being deleted as an inventor (Trygar) that the error occurred without deceptive intention on his part, and (3) the petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(5), which requires submission of the written consent of any existing assignee. All aforementioned petitions were filed on March 29, 2006 (certificate of mailing date March 27, 2006).

In addition, this decision addresses the petition under 37 CFR 1.48(a), filed November 14, 2007, to add Jerral Richardson as an inventor and to retain Joseph Trygar as an inventor.

The petition under 37 CFR 1.48(a), filed March 29, 2006 (certificate of mailing date March 24, 2006), is **dismissed**.

The petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) and (a)(5), filed March 29, 2006 (certificate of mailing date March 27, 2006), is **dismissed**.

The petition under 37 CFR 1.48(a), filed November 14, 2007, is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT.

SUMMARY OF FACTS

Provisional Application No. 60/574,621 titled, "Pill Dispenser" was filed May 26, 2004. The cover sheet indicates the inventors are Joseph Trygar and Jerral Richardson. Both inventors assigned their interests in the invention to Seraphim International, Inc. (Seraphim) on June 2, 2004. The assignments were recorded on August 11, 2004.

The instant application was filed May 26, 2005. The transmittal sheet indicates the first inventor is Jerral Richardson. The application was not filed with an executed oath or declaration.

An executed declaration was filed September 26, 2005. Although the declaration has Jerral Richardson listed as the second inventor, all of Jerral Richardson's information, including his name, was struck-through. The declaration listed Joseph Trygar as the first inventor and was signed by Trygar. Therefore, only Joseph Trygar was an inventor of record as of September 26, 2005.

Regardless of whether or not the correct inventorship should have been Trygar and Richardson, or just Trygar, the assignee of record was Seraphim since Trygar and Richardson had each signed an assignment of all their rights to Seraphim.

The papers filed September 26, 2005, included a power of attorney. The power of attorney was signed by Trygar in his capacity as CEO of Seraphim and gave power of attorney to all the representatives associated with customer no. 24382. The representatives of record associated with customer no. 24382 included Joseph Heino at the law firm of Davis & Kuelthau S.C.

On November 3, 2005, Seraphim assigned its rights in the invention to ArcOne Systems LLC (ArcOne).[1] A copy of the assignments recorded in Provisional Application was recorded for the instant application on November 7, 2005. A copy of the assignment from Seraphim to ArcOne was recorded November 14, 2005.

The request under 37 CFR 1.48(a) does not meet the requirements of 37 CFR 1.48(a)(2) and 37 CFR 1.48(a)(5). Specifically, the petition is not accompanied by a statement from Trygar that the error in inventorship occurred without deceptive intent or written consent from ArcOne. The request was accompanied by a petition under 37 CFR 1.183 requesting waiver of the two requirements.

The petition under 37 CFR 1.183 states, that in response to a request for Trygar to sign the statement of lack of deceptive intent, Trygar called Patents+TMS and spoke with attorney Joshua Smith. A statement by Joshua Smith indicates Trygar acknowledged Jerral Richards is an inventor. Smith's statement does not indicate Trygar ever agreed Brandon Richardson was an inventor or agreed Trygar was not an inventor.

---

[1] Papers filed November 14, 2007, including a paper signed by the CEO of ArcOne indicate the assignee's full name is Arc:One LLC. However, assignment records and copies of the assignments all refer to ArcOne as ArcOne Systems Inc. This decision assumes ArcOne Systems, LLC and Arc:One LLC are the same entity.

A Notice of Allowance and a Notice of Allowability were mailed on September 14, 2007. The Notices were mailed to the address designated in the declaration executed by Trygar.

On September 18, 2007, Attorney Mattson filed a letter requesting the status of the Rule 48 request and Rule 183 petition filed March 29, 2006.

On November 14, 2007, a request under 37 CFR 1.48(a) was filed by Attorney Joseph Heino. The request and a statement from Trygar support the addition of Jerral Richardson as an inventor. The request and the statement by Trygar oppose the addition of Brandon Richardson as an inventor or the deletion of Trygar as an inventor. The request includes the assignee's written consent to the addition of Jerral Richardson as an inventor and opposition to the addition of Brandon Richardson.

RULE 48

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

OPINION

The record fails to establish Brandon Richardson should be added as an inventor.

In order for Brandon Richardson to be added as an inventor, the Office must grant the petition under 37 CFR 1.183.

37 CFR 1.183 states, with emphasis added,

> In an extraordinary situation, *when justice requires*, any requirement of the regulations in this part ... *may* be suspended or waived by the Director ... on petition of the interested party, subject to such other requirements as may be imposed.

When a petition is filed under 37 CFR 1.183, petitioner bears the burden of proving relief is warranted.

In order to establish justice requires waiver of a regulation, a petition must establish one or more parties will be harmed if relief is not granted. The record fails to establish any party will be harmed if Brandon Richardson is not added as an inventor of record.

The record fails to indicate Brandon Richardson or any other party will suffer any form of financial harm if Brandon Richardson is not listed as an inventor.

The record indicates, even if Brandon Richardson were added as an inventor of record, ArcOne would still be the owner of a 100% interest in the invention, the application, and any patent resulting from the instant application.

The papers filed November 14, 2007, include a copy of a Non-Disclosure Agreement (NDA) and Independent Consulting Agreement (ICA) signed by Jerral Richardson.

The NDA is an agreement between the following parties:

(1) "Joseph A. Trygar (MED Matric, LLC/Seraphim International, LLC)", and
(2) "Jerral Richardson (Innovative Design Technologies, Inc.)".

The ICA is an agreement between the following parties:

(1) "JOSEPH A. TRYGAR (MED MATRIX, LLC and/or SERAPHIM INTERNATIONAL", and
(2) "JERRAL RICHARDSON and/or INNOVATIVE DESIGN TECHNOLOGY, INC.".

In essence, the papers filed November 14, 2007, provide arguments that would lead one to conclude justice does not require the addition of Brandon Richardson as an inventor since any work he performed would have been the result of violations of confidentiality portions of the NDA and ICA by Jerral Richardson.

The fact the NDA and ICA include Innovative Design Technology, Inc. (IDT) as a party is an indication the parties *may* have intended Jerral Richardson to have the authority to share information with employees of IDT. Assuming such an intent was present and Brandon Richardson was an employee of IDT, sharing information with Brandon Richardson *may* not have been in violation of the agreements.

Even if Brandon Richardson were an inventor, such a fact would not necessarily result in Brandon Richardson gaining any property interest in the invention. Paragraph (f) of the ICA explicitly states, "All personnel in the employment of Contractor who perform any act pursuant to the reasonable scope of the Agreement shall be deemed to be performing work as an agency of Contractor." The papers filed March 29, 2006, never contend Brandon Richardson ever worked on any inventions involving pill dispensers prior to Trygar contacting Jerral Richardson. In other words, the March 29, 2006 papers do not provide any information to support a conclusion any work performed by Brandon Richardson was outside the reasonable scope of his employment.

Neither the March 29, 2006 papers, nor any other portion of the record establishes ArcOne will not be the 100% owner of the invention and application if Brandon Richardson is added as an inventor. The record fails to establish adding Brandon Richardson as an inventor of record would result in Brandon Richardson obtaining any property interest in the invention or application.

The record fails to prove Brandon Richardson or any other party will suffer any form of intangible harm if Brandon Richardson is not added as an inventor of record.

The record does not include any assertion Brandon Richardson will be harmed by a loss of prestige if not listed as an inventor on the patent. However, even if such harm were shown, such a showing would fail to establish justice requires waiver of portions of 37 CFR 1.48 in the instant situation.

The Office of Petitions at the United States Patent and Trademark Office is not the only possible forum for resolving the instant inventorship dispute.

When a party has a suitable remedy on hand to resolve a predicament, that does not require the extraordinary remedy of invoking 37 CFR 1.183, then relief under 37 CFR 1.183 will normally not be granted. Justice does not require an extraordinary remedy when other avenues for relief may be taken.

One method Attorney Mattson, Brandon Richardson, and Jerral Richardson have to resolve the inventorship dispute is the filing of a continuation application listing only Brandon Richardson and Jerral Richardson as the inventors of record. After the continuation application is filed, an interference can be declared and the inventorship dispute can be resolved during the interference process.

Another method is seeking a court order. If a court issues an order under 35 U.S.C. 256 for the correction of the inventorship of a patent, a Certificate of Correction can easily be obtained by filing the order and a request for a Certificate for Correction with the USPTO.

Since the inventorship dispute can be resolved through the interference process or in a court of law, justice does not require the extraordinary remedy of waiving the requirement of 37 CFR 1.48(a)(5) (requirement for assignee consent) or 37 CFR 1.48(a)(2) (requirement for statement from Trygar).

A properly signed declaration, or a proper declaration and grantable petition under 37 CFR 1.47, must be filed in order for Jerral Richardson to be added as an inventor of record.

Even though the parties do not dispute the fact Jerral Richardson is an inventor, the requirements of 37 CFR 1.48(a) must be satisfied in order to add Richardson as an inventor of record.

37 CFR 1.48(a)(3) requires the submission of a proper oath or declaration listing the correct inventors. As will be discussed later in this decision, Trygar will not be removed as an inventor of record. Therefore, in order to satisfy 37 CFR 1.48(a)(3) in order to add Jerral Richardson as an inventor of record, the oath or declaration must list Trygar and Jerral Richardson as the inventors.

When the signature of one or more inventors being added cannot be obtained when supplying a declaration pursuant to 37 CFR 1.48(a)(3), one may file a petition under 37 CFR 1.47. MPEP 201.03 states,

> 37 CFR 1.47 is available to meet the requirement for an oath or declaration under 37 CFR 1.63 as for example where A, B, and C were originally named as inventors and D who refuses to cooperate is to be later added as an inventor. The oath or declaration under 37 CFR 1.63 of inventor D may be supplied pursuant to 37 CFR 1.47(a).

The Office recommends petitioner file a declaration listing only Jerral Richardson and Trygar as the inventors. If only Trygar will sign the declaration, then a petition under 37 CFR 1.47(a) should also be filed.

The record does not establish Joseph Trygar should be removed as an inventor of record.

In order for Trygar to be deleted as an inventor of record, the Office must grant the petition under 37 CFR 1.183 filed March 29, 2006.

37 CFR 1.183 states, with emphasis added,

> In an extraordinary situation, *when justice requires*, any requirement of the regulations in this part ... *may* be suspended or waived by the Director ... on petition of the interested party, subject to such other requirements as may be imposed.

When a petition is filed under 37 CFR 1.183, petitioner bears the burden of proving relief is warranted.

Even if the current record were to establish facts that would normally result in Trygar being deleted as an inventor of record, the request to delete Trygar could not be granted. Since neither Brandon Richardson nor Jerral Richardson are being added as inventors of record, deleting Trygar would result in the application having no inventors of record which is impermissible.

The following section discusses reasons deletion of Trygar would be improper *even if* Jerral Richardson were being added as an inventor of record.

The record fails to indicate any party will suffer any financial harm if Trygar is not deleted as an inventor of record.

Both Jerral Richardson and Trygar assigned their interests in the invention to Seraphim. Seraphim assigned its interest to ArcOne. Even if Trygar were not the inventor of record, and Jerral Richardson was the inventor of record, ArcOne would still be the full owner of the patent. Therefore, failing to remove Trygar as an inventor will not harm the financial interests of any party.

Even if the failure to remove Trygar would harm the interests of ArcOne, the fact no employee of ArcOne has made any statement in support of deleting Trygar as an inventor of record would support allowing Trygar to remain as an inventor of record.

The record fails to any party will suffer any form of intangible harm if Trygar is not removed as an inventor of record.

The record does not include any assertion Jerral Richardson will be harmed by a loss of prestige if Trygar's name is also listed on the patent as an inventor of record. However, even if such harm were shown, such a showing would be insufficient to establish justice requires waiver of portions of 37 CFR 1.48 in the instant situation.

Equitable considerations support a conclusion Trygar should not be deleted as an inventor of record.

Diligence by Trygar, without more, might not be enough to justify allowing him to remain an inventor of record *if* the record contained strong evidence demonstrating he is not an inventor. However, in view of the absence of such strong evidence, Trygar's diligence is a factor that may properly be considered by the Office when determining if justice/equity requires waiver of a federal regulation.

Trygar, as CEO of Seraphim, not Jerral Richardson, appears to be the party who took steps to have a provisional application filed May 26, 2005. There is no indication in the record Jerral Richardson paid any portion of legal fees resulting from the law firm of Davis & Kuelthau S.C. preparing and filing the provisional application.

Trygar, as CEO of Seraphim, not Jerral Richardson, appears to be the party who took steps to have a nonprovisional application filed May 26, 2006. If the application had been filed on a later date, the right to claim priority to the provisional application would have been lost. There is no indication in the record Jerral Richardson paid any portion of legal fees resulting from the law firm of Davis & Kuelthau S.C. preparing and filing the nonprovisional application.

The total fees paid to the USPTO on or before September 26, 2005, was $790. There is no indication in the record Jerral Richardson paid any portion of legal fees resulting from the law firm of Davis & Kuelthau S.C. preparing and filing the nonprovisional application.

The record fails to establish the United States Patent and Trademark Office is the proper forum for determining whether or not Trygar is an inventor.

When a party has a suitable remedy on hand to resolve a predicament, that does not require the extraordinary remedy of invoking 37 CFR 1.183, then relief under 37 CFR 1.183 will normally not be granted. Justice does not require an extraordinary remedy when other avenues for relief may be taken.

As discussed previously, since the inventorship dispute can be resolved through the interference process or in a court of law, justice does not require the extraordinary remedy of waiving the

requirement of 37 CFR 1.48(a)(5) (requirement for assignee consent) or 37 CFR 1.48(a)(2) (requirement for statement from Trygar).

In summary: Joseph Trygar is currently the only named inventor. Brandon Richardson will not be added as an inventor. Jerral Richardson may be added as an inventor if a fully executed declaration listing both Jerral Richardson and Joseph Trygar is filed. If only Joseph Trygar will sign the declaration listing both joint inventors, then a petition under 37 CFR 1.47(a) for Jerral Richardson should be filed, in addition.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

COPY MAILED
OCT 22 2008

In re Application of :
Trygar :
Application No. 11/138,515 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 10724:09474 :

This decision addresses (1) the petition under 37 CFR 1.48(a) to add Jerral Richardson as a joint inventor, (2) the petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2), which requires a statement from each person being added as an inventor (Mr. Richardson) that the error occurred without deceptive intention on his part, and (3) the petition under 37 CFR 1.47(a) to excuse the absence of Mr. Richardson's signature on the declaration pursuant to 37 CFR 1.48(a)(3). All aforementioned petitions were filed on August 15, 2008.

The petition under 37 CFR 1.48(a) is **dismissed**.

The petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) is **dismissed**.

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The present petition does not comply with (2) and (3) listed above.

With respect to (2) above, each person being added must present *his* statement of lack of deceptive intent, or, if *his* statement cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioner may seek waiver under 37 CFR 1.183 of that part of the regulation. See MPEP 201.03(B). Petitioner must show that the inability to obtain the statement from Mr. Richardson is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control. Under the circumstances of this case, petitioner should proceed as noted in more detail *infra* to make his showing in support of his request for waiver.

With respect to (3) above, the entire showing of record, considered also under 37 CFR 1.47, does not currently warrant acceptance of the declaration under 37 CFR 1.63 and 37 CFR 1.48(a)(3), filed with the instant petition, so as to amend the inventive entity of record under 37 CFR 1.48(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) set forth above.

With respect to (1) above, an attempt was made to mail a copy of the declaration and a statement of lack of deceptive intent papers to Mr. Richardson's last known address on May 22, 2008. The correspondence was later returned to sender. 'MOVED LEFT NO ADDRESS UNABLE TO FORWARD RETURN TO SENDER" was affixed to the correspondence.

The applicable statute (35 U.S.C. 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. See MPEP 409.03(a). The record currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate Mr. Richardson to obtain his statement under 37 CFR 1.48(a)(2) or his signature on the declaration, such that the declaration can be accepted under 37 CFR 1.47. Such is required for any renewed petition.

Where inability to find or locate a named inventor(s) is alleged, 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 to locate the inventor. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts

which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration 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. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

If Mr. Richardson is located, then a copy of the transmittal letter itemizing the 48(a)(2) lack of deceptive intent statement, and complete application papers, including declaration, as well as a copy of the proof of service on Mr. Richardson will be required.

It is important that the forthcoming reconsideration petitions contain statements of fact as opposed to conclusions. If there is an express oral refusal, a statement from the person to whom that refusal was made should be made of record.

Regarding fees, the current Rule 47(a) petition fee is $200.00, not $130.00, as specified in the petition. Deposit account no. 50-2331 has been charged the appropriate petition fee.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

COPY MAILED

MAR 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Trygar :
Application No. 11/138,515 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 10724.09474 :

This decision addresses (1) the reconsideration petition under 37 CFR 1.48(a) to add Jerral Richardson as a joint inventor, (2) the reconsideration petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2), which requires a statement from each person being added as an inventor (Mr. Richardson) that the error occurred without deceptive intention on his part, and (3) the reconsideration petition under 37 CFR 1.47(a) to excuse the absence of Mr. Richardson's signature on the declaration pursuant to 37 CFR 1.48(a)(3). All aforementioned petitions were filed in one paper on January 15, 2009.

The petition under 37 CFR 1.48(a) is **GRANTED**.

The petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) is **GRANTED**.

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

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition setting forth the desired change in inventorship, (2) a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioner has shown that Mr. Jerral Richardson has refused to join in the filing of this application with the inventors being identified as Joseph A. Trygar and Jerral Richardson. Mr. Jerral Richardson's attorney, Arthur Mertes received a copy of the application as filed and a declaration for Mr. Richardson's execution. Mr. Mertes returned an executed declaration that was altered to identify a different inventive entity. Petitioner has shown that based on

extraordinary circumstances, that justice requires waiver of the part of the regulations that require Mr. Jerral Richardson's execution of the lack of deceptive intent statement and the declaration for patent application that lists Mr. Trygar and himself as joint inventors.

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

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

Petitioner has shown that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of H. Jerral Richardson as a joint inventor.

Please find enclosed a corrected filing receipt that reflects the inventorship change.

Regarding fees, petitioner has already paid the $200.00 Rule 47 fee and the $130.00 Rule 48 fee. Deposit account no. 50-2331 will be refunded $330.00.

After the mailing of this decision, the application will be referred to the Office of Data Management for consideration of the drawings filed on January 16, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/138,515	05/26/2005	3651	865	10724.09474	14	3

CONFIRMATION NO. 8831

CORRECTED FILING RECEIPT

24382
JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE, WI 53202-6613

Date Mailed: 02/13/2009

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)

Joseph A. Trygar, Pleasant Prairie, WI;
Jerral Richardson, Waukegan, IL;

Power of Attorney: The patent practitioners associated with Customer Number 24382

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/574,621 05/26/2004

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 **US 11/138,515**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

CENTRIFUGAL FILLING APPARATUS AND METHOD

Preliminary Class

198

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JERRAL RICHARDSON
6059 109TH AVENUE
KENOSHA, WI 53142

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MAR 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Trygar :
Application No. 11/138,515 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 10724.09474 :

Dear Mr. Richardson:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WALTER A. HACKLER
2372 S.E. BRISTOL, SUITE B
NEWPORT BEACH, CA 92660-0755

COPY MAILED

SEP 19 2005

OFFICE OF PETITIONS

In re Application of	:
Furnrohr, et al.	: DECISION GRANTING STATUS
Application No. 11/138,518	: UNDER 37 CFR 1.47(a)
Filed: May 26, 2005	:
Atty. Dkt. No.: 3380	:
For: BAG FOR HEATING LIQUIDS	:
AND MEANS FOR HEATING THE BAG	:

This decision is in response to the petition under 37 CFR 1.47(a), filed August 29, 2005.

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

Petitioner has shown that inventor Marcus Furnrohr has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Markus Furnrohr
Fuggerstrasse 20
D-70563 Stuttgart
Germany

In re Application of :
Furnrohr, et al. :
Application No. 11/138,518 : LETTER
Filed: May 26, 2005 :
Atty. Dkt. No.: 3380 :
For: BAG FOR HEATING LIQUIDS AND :
MEANS FOR HEATING THE BAG :

COPY MAILED
SEP 19 2005
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(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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WALTER A. HACKLER
2372 S.E. BRISTOL, SUITE B
NEWPORT BEACH CA 92660-0755

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NOV 0 3 2006

OFFICE OF PETITIONS

Applicant: Furnrohr et al.
Appl. No.: 11/138,518
Filing Date: May 26, 2005
Title: BAG FOR HEATING LIQUIDS AND MEANS FOR HEATING THE BAG
Pub. No.: US 2006/0000829 A1
Pub. Date: January 5, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on June 19, 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, as the first inventor's first name "Markus" is misprinted as "Marcus" on the front page of 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 request for corrected publication received on June 19, 2006, was not timely filed under 37 CFR 1.221(b).

The patent application publication does not include a mistake with respect to the

The error noted by requestor wherein the first named inventor's first name is misspelled is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The mistake is a minor typographical, which does not affect the understanding of the application. The mistake

[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).

does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On June 29, 2005 and September 12, 2005, Filing Receipts were mailed by the Office, which listed the first inventor as "Marcus Furnrohr". To avoid this type of problem or to make a change in the title in the future, applicant's representative should make request a corrected filing receipt.

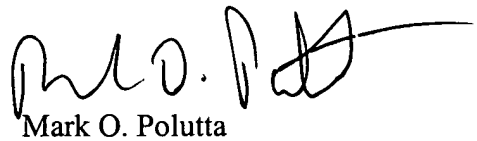
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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
11/138,518	05/26/2005	3742	565	3380	3	13	3

CONFIRMATION NO. 8644

CORRECTED FILING RECEIPT

OC000000021056674

26822
WALTER A. HACKLER
2372 S.E. BRISTOL, SUITE B
NEWPORT BEACH, CA 92660-0755

Date Mailed: 11/01/2006

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)

Markus Furnrohr, Stuttgart, GERMANY;
Wolfgang Theilacker-Beck, Stuttgart, GERMANY;
Matthias Theilacker, Stuttgart, GERMANY;

Power of Attorney:

Walter Hackler--27792

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 10 2004 026 446.5 05/29/2004

If Required, Foreign Filing License Granted: 06/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/138,518

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Bag for heating liquids and means for heating the bag

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 06/03/2010

Applicant	: Takayuki Hara	: DECISION ON REQUEST FOR
Patent Number	: 7627136	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/138,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: 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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OFFICE OF PETITIONS

GARVEY, SMITH, NEHRBASS & DOODY
SUITE 3290
3838 N. CAUSEWAY BLVD.
METAIRIE LA 70002

In re Application of	:	
Roger P. Juneau et al	:	
Application No. 11/138,540	:	DECISION GRANTING PETITION
Filed: May 26, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. A04111US (26644.8)	:	

This is a decision on the petition, filed July 26, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 31, 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) has been rescinded.

Any inquiries concerning this decision may 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
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
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Michael B. Farber
Catalyst Law Group, APC
9710 Scranton Road, Suite S-170
San Diego, CA 92121

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OFFICE OF PETITIONS

In re Application of
Tony Baker
Application No. 11/138,543
Filed: May 25, 2005
Attorney Docket No. 8089-003-US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 1, 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 has an incorrect customer number for the attorneys of record in this application.

A non-final rejection was mailed on March 8, 2007. Failure to timely reply will result in the abandonment of this application.

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

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. A courtesy copy of this decision will be mailed to correspondence address noted on the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Baker, Botts, LLP
Attn: Bruce W. Slayden, II
1500 San Jacinto Center
98 San Jacinto Boulevard
Austin, TX 78701

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SABIC INNOVATIVE PLASTICS – IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

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OFFICE OF PETITIONS

In re Application of :
Josephus Gerardus M. Van Gisbergen et al :
Application No. 11/138,550 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 162977-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 11, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 12, 2007.

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

This matter is being referred to Technology Center AU 1713 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

In re Application of FROHWEIN ET AL.
Appl. No.: 11/138,569
Filed: May 26, 2005
For: "Low Permeation Weldable Fuel Tank Assembly"

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed November 14, 2005, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document (not titled) be expunged from the record.

"Materiality" is defined as any information which the examiner considers as being important to a determination of patentability of the claims.

The petition is deficient because the petition does not specifically identify the trade secret document by name or title. In addition, the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted. Moreover, the petition does not contain a statement that the petition is being submitted by, or on behalf of, the party in interest who originally submitted the information.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Bernard S. Klosowski, Jr.
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

MAILED JUN 09 2006

In re Application of FROHWEIN, AXEL
Appl. No.: 11/138,569
Filed: May 26, 2005
For: LOW PERMEATION WELDABLE FUEL TANK ASSEMBLY

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed November 16, 2005, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document entitled 'Trade Secret document', filed November 16, 2005, be expunged from the record.

The petition is deficient because:

1. the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted.

2. the petition does not contain a statement that the petition is being submitted by, or on behalf of, the party in interest who originally submitted the information.

The petition was accompanied by authorization to charge fees under 37 CFR 1.17(h) and any underpayment in fees to Deposit Account No. 04-1403. Accordingly, the required petition fee under 37 CFR 1.117 (g) of $200 has been charged to said account.

Further review of the record shows the examiner promulgated an ex parte Quayle action on April 11, 2006 which set forth a shortened statutory period for response of two months. This action was in response to the petitioner's filing of a Request for Continued Examination (RCE) in order

to have the above styled petition considered. In said Quayle action, the examiner drafted a partial decision on the above-mentioned petition.

Initially, it is noted *ex parte* Quayle practice is described in MPEPE 710.02(b) as follows:

When an application is in condition for allowance, except as to matters of form, such as correction of the specification, a new oath, etc., the application will be considered special and prompt action taken to require correction of formal matters. Such action should include an indication on the Office Action Summary form PTOL-326 that prosecution on the merits is closed in accordance with the decision in Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). A 2-month shortened statutory period for reply should be set.

See also MPEP 714.14. It does not appear that the promulgation of an *ex parte* Quayle action was proper following the filing of the RCE because formal matters such as those described above were not outstanding. It is wholly inappropriate to close prosecution on an applicant while at the same time inadequately treating the petition. Further, the examiner is without authority to decide petitions under 37 CFR 1.59 (see MPEP 1002.02(b)). For at least this reason, the *ex parte* Quayle action must be vacated.

Due to the deficiencies outlined above, the petition under 37 CFR 1.59(b), filed November 16, 2005, to expunge information from the above-identified application cannot be granted at this time.

Petitioner may request reconsideration of the petition. Any such request must be resubmitted within two months of the mailing date of this decision and supply the omitted statements.

The application will be returned to the docket of the examiner to await response from Petitioner.

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449.

PETITION DISMISSED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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United States Patent and Trademark Office
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AUG 04 2006

Director's Office
Group 3700

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

In re Application of:
FROHWEIN, AXEL ET AL.
Serial No.: 11/138,569
Filed: May 26, 2005
Docket: ALF-74-CIP
Title: LOW PERMEATION WELDABLE FUEL TANK ASSEMBLY

DECISION ON PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59

This is a response to the petition under 37 CFR 1.59(b), filed June 15, 2006 to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document entitled Trade Secret, filed November 16, 2004 be expunged from the record. Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

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

Petitioner has met requirements A, C, D and E. However, petitioner has not met requirement B.

The petition contains a clear statement that the information to be expunged is trade secret material. However, the petition does not state that the information has not been otherwise made public. The petition is, therefore, deficient.

Petitioner may file a request for reconsideration of this decision, without fee. However, such a request must be filed within two months of the date of this decision. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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Director's Office
Group 3700

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

In re Application of:
FROHWEIN, AXEL ET AL.
Serial No.: 11/138,569
Filed: May 26, 2005
Docket: ALF-74-CIP
Title: LOW PERMEATION WELDABLE FUEL TANK ASSEMBLY

DECISION ON PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59

This is a response to the renewed petition under 37 CFR 1.59(b), filed Aug. 4, 2006 to expunge information from the above identified application.

The petition is GRANTED.

Petitioner requests that a document entitled Trade Secret, filed November 16, 2004 be expunged from the record. Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;

(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;

(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and

(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Petitioner has met requirements A-E. The petition is, therefore, granted.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life of any patent that issues on the above-identified application. The expunged material has been removed from the official file. It is contained in a non-public Artifact folder associated with the file and will not be returned to applicant.

Any questions regarding this petition decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/08

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction for Appl. No.: 11138574 Patent No.: 7392751 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 [signature] **Art Unit** 3743

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Bernard S. Klosowski, Jr.
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
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MAILED JUN 09 2006

In re Application of FROHWEIN, AXEL
Appl. No.: 11/138,588
Filed: May 26, 2005
For: LOW PERMEATION WELDABLE FUEL TANK ASSEMBLY

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed November 16, 2005, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document entitled 'Trade Secret document', filed November 16, 2005, be expunged from the record.

The petition is deficient because:

1. the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted.

2. the petition does not contain a statement that the petition is being submitted by, or on behalf of, the party in interest who originally submitted the information.

The petition was accompanied by authorization to charge fees under 37 CFR 1.17(h) and any underpayment in fees to Deposit Account No. 04-1403. Accordingly, the required petition fee under 37 CFR 1.117 (g) of $200 has been charged to said account.

Due to the deficiencies outlined above, the petition under 37 CFR 1.59(b), filed November 16, 2005, to expunge information from the above identified application can not be granted.

Petitioner may request reconsideration of the petition. Any such request must be resubmitted within two months of the mailing date of this decision and supply the omitted statements.

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449.

PETITION DISMISSED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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In re Application of FROHWEIN, AXEL
Appl. No.: 11/138,588
Filed: May 26, 2005
For: "Low Permeation Weldable Fuel Tank Assembly"

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed November 14, 2005, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document (not titled) be expunged from the record.

"Materiality" is defined as any information which the examiner considers as being important to a determination of patentability of the claims.

The petition is deficient because the petition does not clearly identify the trade secret document by name or title. In addition, the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted. Moreover, the petition does not contain a statement that the petition is being submitted by, or on behalf of, the party in interest who originally submitted the information.

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Bernard S. Klosowski, Jr.
DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

AUG 20 2007

In re Application of: FROHWEIN, AXEL
Serial No.: 11/138588
Filed: May 26, 2005
Title: LOW PERMEATION WELDABLE FUEL TANK ASSEMBLY

DECISION ON PETITION UNDER 37 C.F.R. 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed November 16, 2005 and renewed on June 15, 2006 to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document entitled "Trade Secret Document", filed November 16, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life of any patent that issues on the above-identified application. The expunged material has been removed from the official file. It is contained in a non-public Artifact folder associated with the file and will not be returned to applicant.

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center Special Programs Examiner at 571 – 272-4449.

Karen M. Young, Director
Technology Center 3700

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SYNOPSYS, INC. C/O HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/21/2010

Applicant	: Anand Arunachalam	: DECISION ON REQUEST FOR
Patent Number	: 7581197	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,590	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660-6324

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Jack A. Syage	:	
Application No. 11/138,594	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 155692-0043 (P009)	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed January 30, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The instant petition includes detailed description of the detector that is useful in screening explosives, chemical agents, and other illicit chemicals. Petitioner states "The photo-ionizer may form positive ions for molecules that have reasonable low ionization potentials such as chemical weapons agents and drug compounds. The glow discharge ionizer can form negative ions from molecules that have high electron affinities such as explosives compounds." 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 2881 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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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	: Anantha R. Mekala	: DECISION ON REQUEST FOR
Patent Number	: 7627004	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

SHOOK, HARDY & BACON L.L.P.
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

In re Application of :
Brodie, et al. : DECISION ON PETITION
Application No. 11/138,603 :
Filed: May 26, 2005 :
Atty. Dkt. No.: MFCP.119058 :

This decision is in response to the "PETITION TO ACCORD FILING DATE," filed July 28, 2005. This petition is being treated under 37 CFR 1.10(c) to accord the above-identified application a filing date of July 28, 2005.

Petitioner alleges that the instant application was deposited in Express Mail service May 26, 2005. As supporting evidence, petitioner has provided a copy of an Express Mail label bearing tracking number EV368785367US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file) and a "date-in" of May 26, 2005.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of May 26, 2005 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 26, 2005.

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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NISKAYUNA NY 12309

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JUL 06 2010

OFFICE OF PETITIONS

In re Application of :
An-Pin ZHANG, et al :
Application No. 11/138,615 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 162347-1/YOD :
(GERD.0444)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 28, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620 and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1795 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.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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

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NOV 13 2008

In re Application of

MURPHY, Martin A. et al.
Application No. 11/138,618
Filed: May 25, 2005
Attorney Docket No. **022212-000110US**

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 24, 2008.

The request is **APPROVED**.

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

The request was signed by Joseph Snyder on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 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 Martin Murphy at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MARTIN A. MURPHY**
1185 MEADOWCREEK CIRCLE
ST. HELENA CA 94574

cc: **JOHN R. SCHULLEK**
P.O. BOX 60562
COLORADO SPRINGS CO 80960

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JJGJR.: 08-06

Paper No: __

JOHN C. HAMMAR
THE BOEING COMPANY
P.O. BOX 3707, MC 11-XT
SEATTLE WA 98124-2207

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Krienke, et al. :
Application No.: 11/138,620 :
Filing Date: 25 May, 2005 :
Attorney Docket No. 97-115C :

DECISION

This is a decision on the petition filed on 20 April, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

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

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Petitioner apparently was not Counsel of record at the time the application went abandoned and thus cannot make the statement of unintentional delay. Petitioner should have Applicant(s) or Assignee(s) also execute a statement of unintentional delay conforming with the regulatory language.

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to non-final Office action mailed on 23 September, 2005, with reply due absent extension of time on or before 11 Au23 December, 2005;
- the application went abandoned by operation of law after midnight 23 December, 2005;
- the Office mailed the Notice of Abandonment 17 April, 2006;
- on 20 April, 2006, Petitioner filed the instant petition (with fee), a reply in the form of an amendment, and made the statement of unintentional delay–however, Petitioner was not of record at the time the application went abandoned and should submit the statement of unintentional delay by the applicant(s) (or assignee(s) if the application had been assigned at that time) in conformance with the regulatory requirement.

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]

---

[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:

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

---

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

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

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

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

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

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

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

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

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

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

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

the reply now to be accepted on petition.[3]

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

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

Allegations as to
Unintentional Delay

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

It appears as of this writing that Petitioner has yet to satisfy the "statement/showing" requirement under the regulation, and will require a statement from the applicant(s) (or assignee(s) with certificate under 37 C.F.R. §3.73(b)) in support of the petition .

CONCLUSION

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

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

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

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

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

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

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
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[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is 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 .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[10] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JJGJR.: 04-07

Paper No: __

KLEIN, O'NEILL
& SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE CA 92606

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APR 23 2007

OFFICE OF PETITIONS

In re Application of :
Krienke, et al. : DECISION
Application No.: 11/138,620 :
Filing Date: 25 May, 2005 :
Attorney Docket No. 97-115C :

This is a decision on the petition filed on 12 October, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the petition was referred to the attorneys in the Office of Petitions only at this writing.

NOTE:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected, and Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to non-final Office action mailed on 23 September, 2005, with reply due absent extension of time on or before 23 December, 2005;
- the application went abandoned by operation of law after midnight 23 December, 2005;
- the Office mailed the Notice of Abandonment 17 April, 2006;
- on 20 April, 2006, Petitioner filed the original petition (with fee), a reply in the form of an amendment, and made the statement of unintentional delay–however, while Petitioner previously had filed some papers in the application he was not of record and there was no indication that he was in a position to make the statement of unintentional delay–and for that reason, the petition was dismissed on 17 August, 2006;
- the instant petition with supporting documentation and a power of attorney from the office of the Assignee clarifies the matter and so seeks to overcome prior deficiencies.

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]

---

[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;

STATUTES, REGULATIONS AND ANALYSIS

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

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

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to
Unintentional Delay

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

Petitioner has satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 1700 for further processing in due course.

---

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[8] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID C. FORBES
P.O. BOX 3476
KIRKLAND, WA 98083

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MAY 26 2006
OFFICE OF PETITIONS

In re Application of :
David Christopher Forbes :
Application No. 11/138,626 : DECISION ON PETITION
Filed: May 26, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed May 26, 2005, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), 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. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to provide any evidence to support how the invention would materially contribute to (B) the more efficient utilization and conservation of energy resources. While the petition states that "the invention of the above application is an improved air impingement tunnel type conveyor oven. It provides a more energy efficient cooking system than heretofore available because it uses lower jet velocities, lower air circuit pressures, lower circulating volume, simplified airflow path, improved placement of heat source," this is not the correct material showing. For the petition to be granted special status, petitioner must provide a showing of how petitioner's instant invention materially contributes to the conservation of energy resources. If petitioner's invention is improvements to reduces the complexity of the air

circuit and flow control system and reduces the number of components making up the air circuit flow control system stated in the petition, then petitioner should submit "material" evidence of such as compared to other common industrial ovens.

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 3749 for action in its regular turn.

Amelia Au
Petitions Examiner
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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DAVID C. FORBES
P.O. BOX 3476
KIRKLAND WA 98083

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Patrice Brunet :
Application No. 11/138626 : ON PETITION
Filing Date: 05/26/2005 :
Title of Invention: IMPINGEMENT TUNNEL OVEN WITH REDUCED ENERGY CONSUMPTION AND REDUCED MAINTENANCE :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 23, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is September 24, 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 (and the submission required by 37 CFR 1.114, filed December 2, 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) 272-3232.

This application is being referred to Technology Center AU 3749 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID C. FORBES
P.O. BOX 3476
KIRKLAND WA 98083

MAILED

JUN 25 2009

OFFICE OF PETITIONS

In re Application of	:	CORRECTED
DAVID C. FORBES[1]	:	DECISION
Application No. 11/138626	:	ON PETITION
Filing Date: 05/26/2005	:	
Title of Invention: IMPINGEMENT TUNNEL	:	
OVEN WITH REDUCED ENERGY	:	
CONSUMPTION AND REDUCED	:	
MAINTENANCE	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 23, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is September 24, 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 (and the submission required by 37 CFR 1.114, filed December 2, 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) 272-3232.

This application is being referred to Technology Center AU 3749 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

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

[1] The original Decision incorrectly Patrice Brunet as the inventor.

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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Wong, Cabello, Lutsch, Rutherfor & Brucculer L.L.P
20333 SH 249
Suite 600
Houston TX 77070

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JUL 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Jordi Parramon, et al.	:	
Application No. 11/138,632	:	DECISION ON PETITION
Filed: May 26, 2005	:	TO WITHDRAW
Attorney Docket No. 585-0034US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 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, ***ownership transfer***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bryant R. Gold**
Laura Haburay Bishop
25129 Rye Canyon Loop
Valencia, CA 91355

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JJGJR.: 02-06

Paper No: __

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

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Murphy et al. :
Application No. 11/138,636 : ON PETITION
Filed: 25 May, 2005 :
Attorney Docket No. 022212-000210US :

This is a decision on the petition filed on 15 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 **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 25 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 12 July, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 15 December, 2005, Petitioner Joseph R. Snyder (Reg. No. 39,381) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventors Murphy, Schullek, Ward and Look (for themselves and on behalf of non-signing co-inventor Brian Siesel (Mr. Siesel), and while Petitioner makes a showing that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Mr. Siesel, there is no evidence of a diligent effort to ascertain a current/valid last known address for Mr. Siesel to which to direct the aforementioned documents as required by law.

Petitioner is reminded that the correct mailing information is required in order that the Office undertake it's legal responsibility to attempt Notice to the non-signing inventor via the U.S. Postal Service.

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 demonstrating diligent effort to ascertain for the non-signing inventor a current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

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

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Murphy et al. :
Application No. 11/138,636 : ON PETITION
Filed: 25 May, 2005 :
Attorney Docket No. 022212-000210US :

This is a decision on the petition filed on 25 April, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

BACKGROUND

The record indicates:

- the instant application was filed on 25 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 12 July, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 15 December, 2005, Petitioner Joseph R. Snyder (Reg. No. 39,381) filed, *inter alia*, the original petition, an oath/declaration signed by co-inventors Murphy, Schullek, Ward and Look (for themselves and on behalf of non-signing co-inventor Brian Siesel (Mr. Siesel), and while Petitioner made a showing that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Mr. Siesel, there was

no evidence of a diligent effort to ascertain a current/valid last known address for Mr. Siesel to which to direct the aforementioned documents as required by law, for which reason the petition was dismissed on 2 March, 2006;

- with the instant petition, Petitioner avers that all inventors now have signed the oath/declaration, and submits executed copies of the document in support of the averment;

- thus, it now appears that the oath/declaration has been signed by all inventors.

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

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Martin A. Murphy, et al.	:	
Application No. 11/138,636	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. 022212-000210US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 29, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, the application has insufficient work to justify the administrative burdens to our firm, does not meet any the of conditions set forth in 37 CFR 10.40.

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

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

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

cc: JOHN ROBERT SCHULLEK
PO BOX 60562
COLORADO SPRINGS, CO 80960

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

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Martin A. Murphy, et al.	:	
Application No. 11/138,636	:	DECISION ON PETITION
Filed: May 25, 2005	:	TO WITHDRAW
Attorney Docket No. 022212-000210US	:	FROM RECORD
	:	

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, 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 Joseph R. Snyder on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 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 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: MARTIN A. MURPHY
1185 MEADOWCREEK CIRCLE
ST HELENA, CA 94574

cc: JOHN ROBERT SCHULLEK
PO BOX 60562
COLORADO SPRINGS, CA 80960

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/138,636	05/25/2005	Martin A. Murphy	022212-000210US

CONFIRMATION NO. 9420

POWER OF ATTORNEY NOTICE

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

OC000000033846665

Date Mailed: 12/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/30/2008.

- 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.

/rmholland/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MESCHKOW & GRESHAM, P.L.C.
5727 NORTH SEVENTH STREET, SUITE 409
PHOENIX AZ 85014

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of
Raymond S. Hobbs
Application No.11/138,638
Filed: May 26, 2005
Attorney Docket No. 2236-250

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed May 12, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on December 11, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioner may request a refund of the extension fee by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received December 11, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MESCHKOW & GRESHAM, P.L.C.
5727 NORTH SEVENTH STREET, SUITE 409
PHOENIX AZ 85014

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of
Raymond S. Hobbs
Application No.11/138,638
Filed: May 26, 2005
Attorney Docket No. 2236-250

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed May 12, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received December 11, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORITY & MANNING, PA
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Application of
Stephen John Horne, et al.
Application No. 11/138,666
Filed: May 26, 2005
Attorney Docket No. HTG-1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Dority & Manning, PA has been revoked by the assignee of the patent application on March 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: H2GO, INC.
15345 BOHLMAN ROAD
SARATOGA, CA 95070

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/19/08

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/138668 Patent No: 7216782B2

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: All changes approved

/Danny Worrell/
AU 3765

SPE

AU 3765
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
DIW Jun-06

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

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	DECISION ON PETITION
Application No. 11/138,679	:	TO WITHDRAW HOLDING
Filed: 27 May, 2005	:	OF ABANDONMENT
Atty Dcket No. 04441.0224-00000	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a)" filed 21 April, 2006, which is being treated as a request to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed on 29 June, 2005. A Notice of Abandonment was mailed 16 March, 2006.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 29 September, 2005, acknowledging receipt of, *inter alia*, a response to the Notice, an executed declaration, a one (1) month extension of time, a copy of the Notice, and authorization to charge counsel's deposit account for the required fees. The postcard identifies the application by applicant's name, application number, filing date, attorney docket number, and invention title. A copy of the Response was included with this petition.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to the Office of Initial Patent Examination for entry of the response to the Notice to File Missing Parts.

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

SPE: A. Zarabian

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/2/07

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/138,681 Patent No.: 7184290

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

VIET Q. NGUYEN
PRIMARY EXAMINER

☒ **Approved** — All changes apply.

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

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

Comments: corrections on Mis-spelling errors in Specification. V.N

VIET Q. NGUYEN
PRIMARY EXAMINER

SPE

2827
Art Unit

OIPE
APR 18 2007
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,184,290
Issue Date:	February 27, 2007
Inventor(s):	Winston Lee et al.
Application No:	11/138,681
Filing Date:	May 27, 2005
Title:	LOGIC PROCESS DRAM
Attorney Docket:	MP0066.D1AA

Commissioner for Patents
Certificate of Correction Branch
P.O. Box 1450
Alexandria, Virginia 22313-1450

OK
TO enter
VW
6/5/07

REQUEST FOR CERTIFICATE OF CORRECTION

Sir:

We have reviewed the above referenced patent and have found an error which appears to require a Certificate of Correction.

Enclosed herewith is an original and a copy of the Patent and Trademark Office Certificate of Correction form which we request be approved for the above-indicated patent.

PTO Form 2038 is enclosed authorizing the fee for correction. Please charge any underpayments or credit any over payment to Deposit Account No. 08-0750.

04/19/2007 SSITHIB1 00000035 7184290
01 FC:1811 100.00 OP

Respectfully submitted,

Dated: April 18, 2007
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

By: _____
Michael D. Wiggins
Reg. No. 34,754

APR 23 2007

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,184,290

APPLICATION NO: 11/138,681

DATED : February 27, 2007

INVENTOR(S) : Winston Lee et al.

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

Abstract, Line 14:	Delete "bits" and insert --bit--
Column 2, Line 14:	Delete "a" after "the" (first occurrence)
Column 4, Line 44:	Delete "a" after "the" (second occurrence)
Column 9, Line 15:	Delete "an" and insert --a-- after "causes"
Column 9, Line 33:	Delete "is" after "thickness"
Column 9, Line 43:	Delete "As" and insert --as--
Column 9, Line 47:	Delete "by" after "separated"
Column 10, Line 27:	Delete "bits" and insert --bit--
Column 11, Line 5:	Delete "alone" and insert --along--
Column 11, Line 8:	Delete "bits" and insert --bit--
Column 12, Line 14:	Delete "bits" and insert --bit--
Column 13, Line 3:	Delete "bits" and insert --bit--
Column 13, Line 63:	Delete "bits" and insert --bit--
Column 14, Line 42:	Delete "bits" and insert --bit--

MAILING ADDRESS OF SENDER: Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 200
Troy, Michigan 48098

PATENT NO. 7,184,290

No. of additional copies

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.

APR 2 3 2007

OIPE
APR 18 2007
PATENT & TRADEMARK OFFICE

4-19-07

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Patent Number	7,184,290
Issue Date	February 27, 2007
First Named Inventor	Winston Lee et al.
Application Number	11/138,681
Filing Date	May 27, 2005
Attorney Docket Number	MP0066.D1AA

ENCLOSURES ***(check all that apply)***

- ☐ Fee Transmittal Form
- ☒ Fee Attached
- ☐ Amendment / Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
- ☐ Reply to Missing Parts under 37 CFR1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) ____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

Request for Certificate of Correction; Certificate of Correction (in duplicate); Credit card authorization; and return receipt postcard.

Remarks

Please charge any underpayment or credit any overpayment to Deposit Account No. 08-0750.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	Harness, Dickey & Pierce, P.L. C.		
Signature	Michael D. Wiggins		
Printed Name	Michael D. Wiggins		
Date	April 18, 2007	Reg. No.	34,754

Certificate of Correction APR 23 2007

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Laura Honeman	Express Mail Label No.	EV 522 877 717 US (4/18/2007)
Signature	Laura Honeman	Date	April 18, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

EV 522 877 717 US

APR 23 2007

25 JUL 2008

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	
ROOS, et al.	
Application No. 11/138,690	DECISION ON PETITION
Filed: May 27, 2005	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 033818-204	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition 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.

Item (1) has not been satisfied.

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).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

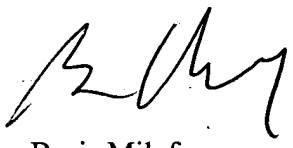
Further correspondence with respect to this matter should be addressed as follows:

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

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

By fax:
(571) 273-0459
ATTN: Office of PCT Legal Administration

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.



Boris Milef
Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/17/07

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/138691 Patent No: 7259068 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE Art Unit

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OFFICE OF PETITIONS

MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006-1101

In re Application of :
Tae Kyung Kim :
Application No. 11/138,694 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. 123034-05061798 :

This is a decision on the petition, filed July 27, 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 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2823 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : August 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tae Kyung Kim
Application No. :11/138,694
Filed :May 27, 2005

The above-identified application has been assigned Patent No. 7,094,647 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. 7,094,647 to Tae Kyung Kim of Korea for METHOD OF FORMING SOURCE CONTACT OF FLASH MEMORY DEVICE 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 05/11/2010

Applicant	: Juha Ojanpera	: DECISION ON REQUEST FOR
Patent Number	: 7620554	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/138,711	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of

Elmore, et al.

Application No. 11/138,717

Filing Date: May 26, 2005

Attorney Docket No. 7515USO1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2008.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the final Office action mailed November 9, 2006. The notice allowed a shortened statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on February 10, 2007. A Notice of Abandonment was mailed May 24, 2007.

Examiner Emily Bernhardt has determined that the amendment filed March 13, 2008, places the application in condition for allowance.

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

The application is being forwarded to Technology Center 1600, GAU 1624 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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AUG 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven W. Elmore et al.	:	
Application No. 11/138,717	:	DECISION ON PETITION
Filed: May 27, 2009	:	
Attorney Docket No. 7515USO1	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 26, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2009. Accordingly, the date of abandonment of this application is May 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

Ramesh Krishnamurthy
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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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 04/20/2010

Applicant	: Ta-Min Feng	: DECISION ON REQUEST FOR
Patent Number	: 7605203	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,730	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **613** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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MAR 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,487,447	:	DECISION ON REQUEST
Jerger	:	FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Application No. 11/138,743	:	PATENT TERM ADJUSTMENT
Filed: May 25, 2005	:	and
Atty Docket No. 16113-018001 /GP-539	:	NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 2, 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 eight hundred thirty-four (834) 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 eight hundred thirty-four (834) 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 **eight hundred thirty-four (834)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,487,447 B1

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S) : Jerger

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 580 days

Delete the phrase "by 580 days" and insert – by 834 days--

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COMMISSIONER FOR PATENTS
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DIW Aug-06

ERIC W. CEMYAR
GUNN & LEE, P.C.
SUITE 1500
700 N. ST. MARY'S
SAN ANTONIO TX 78205

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AUG 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Parsons et al.	:	DECISION ON PETITION TO
Application No. 11/138,750	:	WITHDRAW HOLDING OF
Filed: 26 May, 2005	:	ABANDONMENT
Attorney Docket No. P-8632.6	:	

This is a decision on the petition filed on 23 March, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record reveals that a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, additional claims fees, an executed declaration and a surcharge for their late filing, was mailed on 7 July, 2005, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. As such, the application became for failure to timely reply to the Notice mailed on 7 July, 2005. Notice of Abandonment was mailed on 16 March, 2006.

Petitioners assert that a reply to the Notice action was timely filed. In support, petitioners have supplied a copy of a transmittal letter itemizing the filing of a response, authorization to charge the fee for a four (4) month extension of time and all other required fees, and an executed declaration, each of which contains a Certificate of Mailing or Transmission dated 27 December, 2005, stating that the correspondence was deposited in first class mail, and signed by petitioners' then-current attorney of record, Wayne J. Colton.

As petitioners have provided convincing evidence that a reply and extension of time was transmitted to the USPTO on 27 December, 2005, 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.

No petition to revive fee is due. The petition fee will be credited to counsel's deposit account.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Mark A. Lundgren	: DECISION ON REQUEST FOR
Patent Number	: 7609441	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,782	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **742** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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OCT 22 2008

OFFICE OF PETITIONS

in re Application of :
Sumanth Katte Gururajarao, et. al. :
Application No. 11/138,788 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. TI-39062 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 31, 2008, to revive the above-identified application.

The application became abandoned for failure to file a proper response to the final Office action mailed March 19, 2007. A Notice of Abandonment was mailed on February 15, 2008.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Dolly Y. Wu 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. If Ms. Wu desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $810 filing fee and an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2143, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Dolly Y. Wu
P.O. Box 515892
Dallas, TX 75251

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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JUL 09 2009

OFFICE OF PETITIONS

In re Application of :
Sumanth Katte Gururajaroa, et. al. :
Application No. 11/138,788 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. TI-39062 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on October 28, 2008.

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

This application file is being referred to Technology Center Art Unit 2816 for review of the amendment filed with the present petition.

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

/Andrea Smith/
Andrea Smith
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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 06/29/2010

Applicant	: Sumanth Katte Gururajarao	: DECISION ON REQUEST FOR
Patent Number	: 7639056	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/138,788	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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Alexandria, VA 22313-1450
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DIW Feb-06

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

COPY MAILED

FEB 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Das et al.	:	
Application No. 11/138,793	:	DECISION ON PETITION
Filed: 26 May, 2005	:	
Atty Docket No. QA204 CNT2	:	

This is a decision on the petition, filed on 14 July, 2005, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 26 May, 2005, rather than the presently accorded filing date of 25 May, 2005.

Petitioner alleges that the application was deposited in Express Mail service on 26 May, 2005. In support, petitioners have provided a copy of Express Mail Label No. EL983151062US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "5-25-05" the label also contains an Official USPS postmark dated May 26, 2005. Petitioners have also provided a copy of their USPS Corporate Account statement showing a receipt date of "5/26/05" for the above-identified Express Mail label number.

In view of the above, the correct date of deposit in Express Mail is 26 May, 2005.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be credited to counsel's account as authorized in the present petition.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to **26 May, 2005**.

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

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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
11/138,793	05/26/2005	1626	1950	QA204 CNT2		8	4

CONFIRMATION NO. 1007

CORRECTED FILING RECEIPT

OC000000018152670

23914
LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

Date Mailed: 02/28/2006

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)

Jagabandhu Das, Mercerville, NJ;
Ping Chen, Belle Mead, NJ;
Derek J. Norris, Trenton, NJ;

Power of Attorney:

Burton Rodney--22076
Stephen Davis--26693
Suzanne Babajko--32880
John Kilcoyne--33100
Ronald Hermenau--34620
Joan Switzer--34740
Timothy Babcock--39097

Domestic Priority data as claimed by applicant

This application is a CON of 10/378,373 03/03/2003
which is a CON of 09/548,929 04/13/2000 PAT 6,596,746
which claims benefit of 60/129,510 04/15/1999

Foreign Applications

If Required, Foreign Filing License Granted: 07/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/138,793

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cyclic protein tyrosine kinase inhibitors

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re application of :
MARTIN, JOHN R., et al. :
Application Serial No. 11/138,802 :
Filed: May 26, 2005 :
For: **SYSTEM FOR MANAGING A PLURALITY OF COMPUTER JUKEBOXES** :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed September 18, 2007, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in an Information Disclosure Statement filed September 18, 2007 and depositions filed May 31, 2007 and June 13, 2007 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re application of :
MARTIN, JOHN R., et al. :
Application Serial No. 11/138,802 :
Filed: May 26, 2005 :
For: **SYSTEM FOR MANAGING A PLURALITY OF COMPUTER JUKEBOXES** :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed December 31, 2008, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in an Information Disclosure Statement filed December 31, 2008 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/138,809	05/26/2005	Haining Yang	MICRON.158DV2C1

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

DATE MAILED: September 17, 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 22, 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

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United States Patent and Trademark Office
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DAVID M SIGMOND
487 BLACKFOOT STREET
SUPERIOR CO 80027

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OCT 1 8 2005

OFFICE OF PETITIONS

In re Application of
Wang, et al.
Application No. 11/138,812
Deposited: May 26, 2005
Attorney Docket No. BDG031
For: SEMICONDUCTOR CHIP ASSEMBLY WITH PRECISION-FORMED METAL PILLAR

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed August 15, 2005 (certificate of mailing date August 10, 2005), requesting, in effect, withdrawal of the August 3, 2005 Notice of Incomplete Nonprovisional Application. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on May 26, 2005. On August 3, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on May 26, 2005 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of May 26, 2005 on the basis that 43 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on May 26, 2005. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing May 26, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 43 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 43 sheets of drawings were filed on May 26, 2005. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, deposit account no. 50-2178 will be credited the $400.00 charged to the same deposit account on August 16, 2005.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **May 26, 2005**, using the copy of the 43 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 43 sheets of drawings were present on filing.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 5, 2007

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/138816 patent No.: 7,079,570

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE 2611

SPE Art Unit

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

Mail Date: 04/20/2010

Applicant	: Chang-Su Seo	: DECISION ON REQUEST FOR
Patent Number	: 7579767	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/138,857	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **705** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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B. Joe Kim, Esq.
GREER, BURNS & CRAIN, LTD
Suite 2500
300 South Wacker Drive
Chicago IL 60606

In re Application of: Minoru Tone et al.	)	
Application No.: 11/138,870	)	
Filed: May 26, 2005	)	**DECISION ON PETITION *UNDER 37 CFR §1.181* to RESET PERIOD FOR REPLY**
Attorney Docket No.: 1990.71837	)	
For: DATA BACKUP SYSTEM AND METHOD	)	
	)	

This is a decision on the petition filed October 6, 2008 under 37 CFR § 1.181 to reset the Office action response date under MPEP 710.06 for an Office action not received. The delay in responding to the instant petition is regretted.

A review of the file record indicates that a final Office action was mailed on June 20, 2008. A Request for Continuing Examination, amendment, remarks, as well as a three-month extension of time were filed in the instant application on December 22, 2008. The above-identified papers are entered into the file and have been processed. The response filed December 22, 2008, along with the three-month extension of time, are considered to have been timely filed, thus rendering the request to reset the period for reply of the June 20, 2008 (final) Office action moot.

Accordingly, in view of the above stated reason, the instant petition, filed on October 6, 2008 to reset the period for reply to the June 20, 2008 action, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The instant application is being forwarded to the Examiner for appropriate action on the merits. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, and Software

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United States Patent and Trademark Office
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FEB 18 2010

OFFICE OF PETITIONS

PATRICK G BURNS ESQ
GREER BURNS & CRAIN LTD
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

In re Application of :
Tone, et al. :
Application No. 11/138,870 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 1990.71837 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 15, 2009.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action, mailed April 13, 2009. This Office action set a shortened statutory period for reply of three months. No response having been received, the application became abandoned on July 14, 2009. The Office mailed a Notice of Abandonment on November 12, 2009.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of a master docket record showing all his replies docketed for a due date of July 13, 2009, nor has petitioner stated that such a record does not exist. Rather, petitioner has only submitted a copy of "Case Detail Report" for the instant application.

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

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

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

---

[1] MPEP 711.03(c).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 14 2010

OFFICE OF PETITIONS

PATRICK G BURNS ESQ
GREER BURNS & CRAIN LTD
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

In re Application of :
Tone, et al. :
Application No. 11/138,870 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 1990.71837 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 16, 2010.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action, mailed April 13, 2009. This Office action set a shortened statutory period for reply of three months. No response having been received, the application became abandoned on July 14, 2009. The Office mailed a Notice of Abandonment on November 12, 2009. Applicants filed a petition to withdraw the holding of abandonment on December 15, 2009. However, the petition was dismissed in a decision mailed on February 18, 2010. The petition was dismissed because applicants did not submit a copy of a master docket report for the firm, showing all replies docketed for a due date of July 13, 2009.

With the instant renewed petition, petitioner has submitted a copy of a master docket report, showing all replies docketed for a due date of July 13, 2009. An entry for the instant application does not appear, supporting the conclusion that the April 13, 2009 Office action was not received.

The application is being forward to Group Art Unit 2163 for re-mailing of the April 13, 2009 Office action, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/138,877	05/25/2005	John D. Holcombe	FA/280	9100

7590 10/29/2007

GORE ENTERPRISE HOLDINGS, INC.
551 PAPER MILL ROAD
P. O. BOX 9206
NEWARK, DE 19714-9206

EXAMINER	
SINGH, ARTI R	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
10/29/2007	PAPER

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.

4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

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

10/30/2007 KKIMBL 00000003 071729 11138877
01 FC:1464 130.00 OP

Patent Publication Branch
Office of Data Management

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Michael A. Oblon
Patent Procurement
Perkins Coie, LLP
607 Fourteenth Street N.W.
Washington, DC 20005-2011

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Grigore Axinte et al. :
Application No. 11/138,887 : DECISION ON PETITION
Filed: May 26, 2005 : TO WITHDRAW
Attorney Docket No. 573878002US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 18, 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 Kenneth H. Ohriner on behalf of all attorneys/agents of record. All attorneys/agents 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: Hyperion Innovations, Inc.
1750 112th Avenue, N.E., Suite C-100
Bellevue, WA 98004-3700

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
11/138,887	05/26/2005	Grigore Axinte	573878002US

CONFIRMATION NO. 9364

POWER OF ATTORNEY NOTICE

Michael A. Oblon
Patent Procurement
Perkins Coie LLP
607 Fourteenth Street N.W.
Washington, DC 20005-2011

Date Mailed: 03/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/18/2009.

- 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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APR 18 2007

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
ZIMMEL, Steven :
Application No. 11/138,889 : DECISION ON PETITION
Filed: May 25, 2005 : TO WITHDRAW
Attorney Docket No. **2316.2115US01** : FROM RECORD

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 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 Sarah M. Monfeldt. The undersigned attorney has been withdrawn; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed September 11, 2006 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: **SARAH M. MONFELDT**
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313--145

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

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APR 11 2008

OFFICE OF PETITIONS

In re Application of :
Goran N. MARNFELDT, et al :
Application No. 11/136,938 : DECISION ON PETITION
Filed: May 24, 2005 : TO WITHDRAW
Attorney Docket No. 17991-050001/05-00651-0 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, ownership transfer, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of :
Geffroy-Hyland, et al. : ON PETITION
Application No. 11/138,940 :
Filing Date: May 26, 2005 :
Docket No.: LOREAL 3.0-024 :

This decision is in response to the "PETITION TO CORRECT CORRESPONDENCE FILING DATE FOR "DATE-IN" INCORRECTLY ENTERED ON EXPRESS MAIL LABEL (37 C.F.R. 1.10(d))" filed May 31, 2005, wherein petitioners request the above-identified application be accorded a filing date of May 26, 2005 despite the fact that the "date-in" was not entered on the Express Mail label.

The above-identified application was filed May 26, 2005 in accordance with 37 C.F.R. § 1.10. The application was thus accorded a filing date of May 26, 2005 as indicated in the Filing Receipt mailed July 29, 2005.

Accordingly, the instant petition is hereby **DISMISSED AS MOOT**.

Telephone inquiries related to this decision 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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Docket Administrator - Room 3D-201E
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill, NJ 07974

Mail Date: 05/25/2010

Applicant	: Senthil Kumar	: DECISION ON REQUEST FOR
Patent Number	: 7630512	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/138,941	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
MELISSA J. BEALL	:	
Application No. 11/138,949	:	ON APPLICATION FOR
Filed: May 26, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 04-457-A	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)-(d) filed October 21, 2008, which is properly being treated under the provisions of 37 CFR 1.705(b). Applicant requests that the determination of patent term adjustment be increased by the number of days the Office will take in excess of three years to issue this patent plus the number of days between the payment of the issue fee and the issue date of the patent, which has yet to be determined. Applicant requests this correction in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date and any additional adjustment accrued for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, 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 delay in failing 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(a)(4) and 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, Christina Tartera Donnell, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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32ND FLOOR
CHICAGO IL 60606

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,531,628	:	
Melissa J. Beall	:	
Issue Date: May 12, 2009	:	DECISION ON REQUEST FOR
Application No. 11/138,949	:	RECONSIDERATION OF
Filed: May 26, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 04-457-A	:	

This is in response to the "RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)-(d)", filed July 6, 2009, which is properly treated under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 373 days.

The above-identified application was filed on May 26, 2005. On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,531,628 with a revised patent term adjustment of 373 days. The Office determined that the 351 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR 1.702(b),

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

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

overlap with the 373 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (4).[3] As such, the Office allowed entry of only the period of adjustment of 373 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the zero (0) days of applicant delay, the patent issued with a revised patent term adjustment of 373 days.

On July 6, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees assert:

> The *Wyeth* decision states that "the 'A period' and 'B period' overlap only if they occur on the same calendar day or days" *(Wyeth,* No. 07-1492, slip op. at 8). Thus, according to the *Wyeth* decision, Patentees are entitled to both the "A delay" of 293 days and the "B delay" of 351 days minus any overlap that occurs on the same calendar days. There is no overlap between the "A period" and the "B period."

---

[2] A Restriction Requirement was mailed on May 15, 2007, 14 months and 293 days after the application was filed on May 26, 2005. Further, the Office issued the patent on May 12, 2009, 4 months and 80 days after the payment of the issue fee on October 21, 2008.

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

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> . . .
>
> (4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied[.]

> The application is not subject to a terminal disclaimer.
>
> In light of the foregoing, the Patentees respectfully request that the Patent Term Adjustment be corrected to 649 days. . . .

Request filed 07/06/09, p. 2.

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

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C.

---

[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on May 26, 2005, and ending on the date of the issuance of the patent on

May 12, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).
Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (4), 373 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 351 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All 351 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 373 days of patent term adjustment under 37 CFR 1.702(a)(1) and (4). Entry of both the 351 days and the 373 days is neither permitted nor warranted. 373 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 351 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 373 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STERNE, KESSLER, GOLDSTEIN
& FOX, PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
Jamshid DEHMESHKI, et al.
Application No. 11/138,956
Filed: May 27, 2005
For: DIGITAL MEDICAL IMAGE ANALYSIS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 27, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application
DEHMESHKI, JAMSHID, et al
Serial No.: **11/138,956**
Filed: May 27, 2005
For: **DIGITAL MEDICAL IMAGE ANALYSIS**

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed January 6, 2006, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 5A, and 5B be accepted in lieu of black and white drawing

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED.**

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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JUL 05 2007

OFFICE OF PETITIONS

ALLEGHENY TECHNOLOGIES
1000 SIX PPG PLACE
PITTSBURGH, PA 15222

In re Application of
Steven G. Caldwell
Application No. 11/138,970
Filed: May 26, 2005
Attorney Docket No. TMP-2040/040031

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 3, 2007 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 20, 2007, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2881 for further processing of the request for continued examination under 37 CFR 1.114 filed July 3, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER WOLFE
KIRKPATRICK & LOCKHART LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222-2312

[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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STUART RUDOLER
ATTN: DOCKET CLERK
2 BALA PLAZA, SUITE 300
BALA CYNWYD, PA 19004

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of :
Ami Kassar et al :
Application No. 11/138,974 : DECISION GRANTING PETITION
Filed: May 26, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ADV01-02 :

This is a decision on the petition under 37 CFR 1.137(f), filed January 31, 2006, which is being treated 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 October 28, 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) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 24, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This application is being referred to Technology Center Art Unit 3727.

Wan Laymon
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Tiger Wang	:	DECISION ON PETITION
Application No. 11/138,982	:	
Filed: 26 May, 2005	:	
Attorney Docket No.	:	
20050711.ORI	:	

This is a decision on the petition filed on 29 December, 2005, requesting withdraw of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

The application became abandoned on 27 October, 2005, for failure to timely submit the publication fee in response to the Notice of Allowance and Fee(s) due mailed on 26 July, 2005, which set a three (3) month statutory period for reply. On 17 October, 2005, the issue fee was received. Notice of Abandonment was mailed on 16 December, 2005.

Petitioner asserts, in pertinent part:

> As set forth in the enclosed copy of NO PUBLICATION EXPECTED including a patent office received stamp of October 15, 2005, publication is not anticipated in this application such that no publication fee will be required.
>
> As no publication fee is required, a balance of $300 is not due as indicated in Box 2b of PTO-1432. Thus, the abandonment of the present application should be withdrawn, and this application should proceed to issuance.

Petitioner's argument has been considered, but is not persuasive.

37 CFR 1.211 states, in pertinent part:

> (a) Each U.S. national application for patent filed in the Office under 35 U.S.C. 111(a) and each international application in compliance with 35 U.S.C. 371 will be published promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code, unless:
>
> (1) The application is recognized by the Office as no longer pending;
> (2) The application is national security classified (see § 5.2(c)), subject to a secrecy order under 35 U.S.C. 181, or under national security review;
> (3) The application has issued as a patent in sufficient time to be removed from the publication process; or
> (4) The application was filed with a nonpublication request in compliance with § 1.213(a).

MPEP 1303 states, in pertinent part:

> If an application is subject to publication under 37 CFR 1.211, the Notice of Allowance will require both the issue fee and the publication fee. See 37 CFR 1.211(e). The Notice of Allowance and Issue Fee Due form (PTOL-85) has been revised and the revised form is entitled "Notice of Allowance and Fee(s) Due." Revision of the form was necessary to include the amount of any required publication fee, as provided in 37 CFR 1.211(e) and 1.311, and to more clearly communicate the amount of any patent term extension or adjustment earned under 35 U.S.C. 154(b).

The present application does not meet any of the requirements which would exempt it from publication under 37 CFR 1.211(a). As such, the publication fee **must** be paid. Specifically, petitioner's argument that publication is not "anticipated" lacks merit, as the application is currently scheduled for publication. While petitioner may request a refund of the publication fee if the application has issued as a patent in sufficient time to be removed from the publication process, the fee is required by law in order for the application to issue as a patent.

If the publication fee is paid, but the patent issued and the application has not issued, petitioners may request a refund by fax at (703) 305-8568 or mailed to:

Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

As the showing of record does not merit withdrawal of the holding of abandonment, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(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).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mailing date of this decision. This period is not extendable.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

[1] 37 CFR 1.181(f).

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SUITE 820
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Tiger Wang	:	DECISION ON PETITION
Application No. 11/138,982	:	
Filed: 26 May, 2005	:	
Attorney Docket No.	:	
20050711.ORI	:	

This is a decision on the renewed petition filed on 10 March, 2006, requesting withdraw of the holding of abandonment in the above-identified application, which is treated, in the alternative, as a petition to revive the application under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is again **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

The application became abandoned on 27 October, 2005, for failure to timely submit the publication fee in response to the Notice of Allowance and Fee(s) due mailed on 26 July, 2005, which set a three (3) month statutory period for reply. On 17 October, 2005, the issue fee was received. Notice of Abandonment was mailed on 16 December, 2005. The petition filed on 29 December, 2005, was dismissed on 3 February, 2006.

Petitioner again asserts that no publication fee was required because petitioner expected that the application would not be published. Specifically, counsel states, in essence that he was informed by Office personnel that it was appropriate to file a paper entitled "NO PUBLICATION EXPECTED" in lieu of the publication fee when it was expected that the patent would issue prior to publication.

Petitioner's argument has been considered but is not persuasive:

As stated previously,

37 CFR 1.211 states, in pertinent part:

> (a) Each U.S. national application for patent filed in the Office under 35 U.S.C. 111(a) and each international application in compliance with 35 U.S.C. 371 will be published promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code, unless:
>
> (1) The application is recognized by the Office as no longer pending;
> (2) The application is national security classified (see § 5.2(c)), subject to a secrecy order under 35 U.S.C. 181, or under national security review;
> (3) The application has issued as a patent in sufficient time to be removed from the publication process; or
> (4) The application was filed with a nonpublication request in compliance with § 1.213(a).

MPEP 1303 states, in pertinent part:

> If an application is subject to publication under 37 CFR 1.211, the Notice of Allowance will require both the issue fee and the publication fee. See 37 CFR 1.211(e). The Notice of Allowance and Issue Fee Due form (PTOL-85) has been revised and the revised form is entitled "Notice of Allowance and Fee(s) Due." Revision of the form was necessary to include the amount of any required publication fee, as provided in 37 CFR 1.211(e) and 1.311, and to more clearly communicate the amount of any patent term extension or adjustment earned under 35 U.S.C. 154(b).

The present application does not meet any of the requirements which would exempt it from publication under 37 CFR 1.211(a). As such, the publication fee **must** be paid. Specifically, petitioner's argument that publication is not "anticipated" lacks merit, as the application is currently scheduled for publication. While petitioner may request a refund of the publication fee if the application has issued as a patent in sufficient time to be removed from the publication process, the fee is required by law in order for the application to issue as a patent.

Moreover, assuming an Office employee did suggest a deviation from the regulations, petitioner is not entitled to rely upon oral advice from Office employees which is inconsistent with laws, regulations, and the MPEP. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

As such, the application became abandoned as a result of an error on the part of the applicant, not the USPTO. Therefore, the holding of abandonment will not be withdrawn, and the petition to withdraw the holding of abandonment is again **dismissed**.

PETITION UNDER 37 CFR 1.137(b)

As petitioner requests that the petition be treated as a petition for revival under 37 CFR 1.137(b) if the holding of abandonment is not withdrawn, the petition will be considered under 37 CFR 1.137(b).

The petition is **granted**. Receipt of the publication fee is acknowledged.

The petition to revive fee will be charged to counsel's deposit account as authorized in the present petition.

The application will be forwarded to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JUL 12 2005

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STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

In re application of
Richard Charnitski
Application No. 11/138,983
Filed: May 26, 2005
For: HEAD REST

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on May 26, 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. Colyvas 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**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 07/05/05

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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
11/139,014	05/27/2005	2182	2380	0305-003-002-000000	13	45	3

CONFIRMATION NO. 1185

CORRECTED FILING RECEIPT

OC000000017164201

Searete LLC
Suite 110
1756 - 114th Ave. S.E.
Bellevue, WA 98004

Date Mailed: 10/03/2005

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)

Edward K.Y. Jung, Bellevue, WA;
Royce A. Levien, Lexington, MA;
Robert W. Lord, Seattle, WA;
Mark A. Malamud, Seattle, WA;
John D. Rinaldo JR., Bellevue, WA;

Power of Attorney:

David Romney--24266
Glenn Foster--32676
Eleanor Goodall--35162
Clarence Tegreene--37951
Dale Cook--42434
Elizabeth Nugent--43839
Frederick Kaseburg--47695
Richa Wilson--54543
Corrie Vaa--56595

Domestic Priority data as claimed by applicant

This application is a CIP of 11/137,688 05/25/2005

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/139,014

Projected Publication Date: 11/30/2006

Non-Publication Request: No

Early Publication Request: No

Title

Physical interaction-responsive user interface

Preliminary Class

710

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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HARMAN - BRINKS HOFER CHICAGO
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

Mail Date: 04/21/2010

Applicant	: Alex Escott	: DECISION ON REQUEST FOR
Patent Number	: 7571104	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,028	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **954** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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F5 Networks, Inc.
c/o Frommer Lawrence & Haug LLP.
745 Fifth Avenue
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Jesse Abraham Rothstein	: DECISION ON REQUEST FOR
Patent Number	: 7657618	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

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 PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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F5 Networks, Inc.
c/o Frommer Lawrence & Haug LLP.
745 Fifth Avenue
NEW YORK, NY 10151

Mail Date: 05/18/2010

Applicant : Jesse Abraham Rothstein
Patent Number : 7657618
Issue Date : 02/02/2010
Application No: 11/139,061
Filed : 05/27/2005

: 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 **1235** 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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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 04/20/2010

Applicant	: Edward Bokhour	: DECISION ON REQUEST FOR
Patent Number	: 7672363	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,063	: OF WYETH
Filed	: 05/27/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. BOX 2516
ALEXANDRIA VA 22301

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In re Application of :
Arnold L. Newman :
Application Number: 11/139123 :
Filing Date: 05/28/2005 : ON PETITION
Attorney Docket Number: Newman :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on November 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 11, 2008, for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment mailed on January 10, 2008, which set a one (1)-month shortened period for reply. On April 28, 2008, an amendment and a three (3) month extension of time were filed. On June 3, 2008, however, a Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) *No New Time Period for Reply is Provided* was mailed, stating that the amendment filed on April 28, 2008, was still considered to be non-compliant under 37 CFR 1.121, and that the time period set in the Notice mailed on

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

January 10, 2008, continues to run. Notice of Abandonment was mailed on August 21, 2008.

Receipt of the amendment filed on November 5, 2008, is acknowledged.

The application is referred to Technology Center Art Unit 3632 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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APR 04 2008

OFFICE OF PETITIONS

In re Application of
Joseph Barone, et al.
Application No. 11/139,130
Filed: May 27, 2005
Attorney Docket No. 040503

ON PETITION

This is a decision in response to the petition, filed December 12, 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 an Office action mailed April 30, 2007. This decision precedes the mailing of a Notice of Abandonment. On December 12, 2007, 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on December 12, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the amendment received December 12, 2007.

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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/26/2010

Applicant	: Joseph Barone	: DECISION ON REQUEST FOR
Patent Number	: 7603109	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/139,130	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **400** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Mian Smith :
Application No. 11/139,159 : DECISION GRANTING PETITION
Filed: May 27, 2005 :
Attorney Docket No. 015114-078500US :

This is a decision on the petition filed June 27, 2005, requesting that the above-identified application retain the presently accorded a filing date of May 27, 2005, with Figures 5 and 6, as described in the specification, as part of the original disclosure.

On May 27, 2005, the above-identified application was filed. On June 21, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of May 27, 2005, however, Figures 5 and 6 as described in the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on June 27, 2005, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, five sheets of drawings were received on May 27, 2005.

Upon review of the record, Figures 5 and 6 have not been located among the application papers. However, the evidence is convincing that the application papers deposited May 27, 2005, included Figures 5 and 6, which were subsequently misplaced by the Office. Therefore, the application, including Figures 5 and 6 as described in the specification was complete on filing and entitled to the presently accorded filing date of May 27, 2005.

Accordingly, the petition is granted; the Notice is vacated, accordingly. Deposit account 20-1430 will be refunded the petition fee of $400.00

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of May 27, 2005, including Figures 5 and 6.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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KLARQUIST SPARKMAN
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
W. Patrick Arnott et al	:	DECISION GRANTING
Application No. 11/139,166	:	PETITION
Filed: May 27, 2005	:	
Attorney Docket No. 7348-70962-01	:	

This is a decision on the petition under 37 CFR 1.10, filed September 8, 2005, requesting that the above-identified application be accorded a filing date of May 27, 2005, rather than the presently accorded filing date of May 26, 2005.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 27, 2005, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by, inter alia, a copy of the Express Mail label, receipt no. ER822242805US, showing a Date-In of May 27, 2005. Further, the petition is accompanied by a copy of the "U.S. Postal Service Track&Confirm email Restoration" information supplied by applicants confirming that the package in question, bearing the same Express Mail number found on the original utility application transmittal, was accepted and enroute on May 27, 2005.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label; MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 27, 2005. Accordingly, the instant application is entitled to a filing date of May 27, 2005, and has been so accorded.

The petition is granted.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing with a filing date of May 27, 2005.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 271-3220.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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APR 19 2006

OFFICE OF PETITIONS

In re Application of
Jordan Steven Kavana
Application No. 11/139,182
Filed: May 27, 2005
Attorney Docket No. 7225-19

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 29, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark D. Passler behalf of all attorneys of record who are associated with customer No. 30448.

All attorneys/agents associated with the Customer Number 30448 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 2859 to await a reply to the non-final Office mailed January 13, 2006.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: MR. JORDAN KAVANA
K GROUP INDUSTRIES
4770 BISCAYNE BLVD., SUITE 980
MIAMI, FL 33137

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Jean-Christophe P. Gabriel	: DECISION ON REQUEST FOR
Patent Number	: 7575933	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,184	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Charles William Frank	: DECISION ON REQUEST FOR
Patent Number	: 7620981	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,206	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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OFFICE OF PETITIONS

In re Application of :
Sheldon Foss, Dwight Harris and :
Krishnamoorthy Srinivasan :
Application No. 11/139,211 :
Filed: May 27, 2005 :
Title: CUSTOMER ENROLLMENT IN A :
STORED VALUE CARD PROGRAM :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 19, 2005.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 27, 2005 without an executed oath or declaration and naming Sheldon Foss, Dwight Harris and Krishnamoorthy Srinivasan as joint inventors.

Accordingly, on June 29, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on December 19, 2005, the instant petition and a four (4) month extension of time were filed by facsimile.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

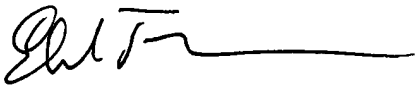
Applicant lacks item (2), as set forth above.

As 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. The declaration submitted December 19, 2005, does not set forth the citizenship, residence or mailing address of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a). Please note, the citizenship requirement is statutory and cannot be waived.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ERIC RINGER
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Sheldon Foss, Dwight Harris and :
Krishnamoorthy Srinivasan :
Application No. 11/139,211 :
Filed: May 27, 2005 :
For: CUSTOMER ENROLLMENT IN A :
STORED VALUE CARD PROGRAM :

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 27, 2006.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DWIGHT HARRIS
50 DOVER CLIFF WAY
ALPHARETTA, GA 30022

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of
Sheldon Foss, Dwight Harris and
Krishnamoorthy Srinivasan
Application No. 11/139,211
Filed: May 27, 2005
For: CUSTOMER ENROLLMENT IN A
STORED VALUE CARD PROGRAM

Dear DWIGHT HARRIS:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ERIC RINGER
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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Alexandria, Virginia 22313-1450
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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	: Anand Rangarajan	: DECISION ON REQUEST FOR
Patent Number	: 7623501	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1001** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Joseph M. Jeddeloh :
Application No. 11/139,274 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. 501177.09 (30164/US/2) :
:

This is a decision on the petition under 37 CFR 1.137(b), filed on July 31, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed April 29, 2008.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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JAN 22 2009

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Joseph M. Jeddeloh :
Application No.: 11/139,274 :
Filed: May 27, 2005 :
Attorney Docket No.: 501177.09 (30164/US/2) :

This is a decision on the petition, filed January 21, 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 July 30, 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 2185 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Markus Gross	: DECISION ON REQUEST FOR
Patent Number	: 7607918	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,279	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **857** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAN 16 2009

APNEOS CORPORATION
2033 RALSTON AVENUE #41
BELMONT, CA 94002

In re Application of :
John G. Sotos et al :
Application No. 11/139,294 : DECISION ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. APN-006 :

This is a decision on the petition, filed November 12, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Restriction Requirement mailed March 21, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 16, 2008.

Petitioner asserts that the Office action dated March 21, 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 nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition submitted on November 12, 2008, is signed by only one inventor. In accordance with 37 CFR 1.33(b)(4), all inventors must sign.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

JOHN SOTOS
1788 OAK CREEK DR. – STE 415
PALO ALTO, CA 94304

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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APNEOS CORPORATION
2033 RALSTON AVENUE #41
BELMONT CA 94002

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
John G. Sotos et al :
Application No. 11/139,294 : DECISION ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. APN-006 :

This is a decision on the renewed petition, filed March 19, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the restriction requirement Office action mailed March 21, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 16, 2008.

Petitioner asserts that the Office action dated March 21, 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 nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3735 for re-mailing the Office action of March 21, 2008. The period for reply will run from the mailing date of the Office action.

Karen Creasy
Petitions Examiner
Office of Petitions

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SUNG I OH PROFESSIONAL LAW CORPORATION
710 QUAIL VALLEY LANE
WEST COVINA CA 91791

MAILED

JAN 13 2010

OFFICE OF PETITIONS

In re Application of :
Joshua Paul :
Application No. 11/139,300 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. 57289-005 :

This is a decision on the petition filed on November 9, 2009, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on October 28, 2008. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on March 30, 2009, made timely by obtaining a two month extension of time. However, in an Advisory Action mailed on April 23, 2009, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned on March 29, 2009. The Office mailed a Notice of Abandonment on June 3, 2009.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 2426 for consideration of the RCE, filed November 9, 2009.

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

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United States Patent and Trademark Office
P.O. Box 1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Stefan Fokken et al	:	
Application No. 11/139,342	:	DECISION GRANTING PETITION
Filed: May 26, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 038827.291729	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 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 to the Nonfinal Rejection mailed June 16, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1714 to consider the amendment submitted September 18, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/139,343	05/27/2005	2685	715	Ralink-17US	3	22	4

CONFIRMATION NO. 2915

CORRECTED FILING RECEIPT

OC000000017667416

Maryam Imam, Esq.
LAW OFFICES OF IMAM
Suite 1010
111 North Market Street
San Jose, CA 95113

Date Mailed: 12/16/2005

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)

Po-Yuen Cheng, San Jose, CA;

Power of Attorney:

Maryam Imam--38190

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/139,343

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Automatic gain control system for multiple receiving antennae

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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In re Application of :
Alain Cribier :
Application No. 11/139,356 : DECISION ON PETITION
Filed: May 27, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PVI-5971CON2CIP2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 27, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Application Data Sheet filed with the petition.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The Application Data Sheet to claim benefit of priority to PCT/EP97/07337 is improper in this application as it lacks the proper chain of priority. In this regard, nonprovisional Application No. 09/345,824 does not claim benefit of PCT/EP97/07337.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044 45, 174 USPQ 417, 418 19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make

a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

In view of the above, petitioner must first correct the claim for benefit of priority to PCT/EP97/07337 if petitioner wishes to claim priority of that application in the present application.

The Application Data Sheet submitted with the petition on March 27, 2008 does not list the Application Number; i.e., 11/139,356. Petitioner must submit the Application Number for the prior Application Status.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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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.

David Bucci
Petition Examiner
Office of Petitions

cc: Mark Garscia
Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

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LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

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MAY 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Alain Cribier	:	
Application No. 11/139,356	:	DECISION ON PETITION
Filed: May 27, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PVI-5791CON2CIP2	:	

This is a decision on the renewed petition filed March 17, 2009 under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Supplemental Application Data Sheet filed with the renewed petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3774 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.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/139,356	05/27/2005	3774	1590	PVI-5791CON2CIP2	12	3

CONFIRMATION NO. 1357

CORRECTED FILING RECEIPT

30452
EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

OC00000035797661

Date Mailed: 05/04/2009

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)

Alain Cribier, Maromme, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number 30452

Domestic Priority data as claimed by applicant

This application is a CIP of 10/139,741 05/02/2002 PAT 6,908,481
which is a CON of 09/795,803 02/28/2001 ABN
which is a CON of 09/345,824 06/30/1999 ABN
which is a 371 of PCT/EP97/07337 12/31/1997

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) EP96402929 12/31/1996

If Required, Foreign Filing License Granted: 06/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/139,356**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Valve prosthesis for implantation in body channels

Preliminary Class

623

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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MAR 17 2009
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 13, 2009

Christine Sherwood

Christine Sherwood

Appl No.	: 11/139,356	Confirmation No. 1357
Applicant	: Cribier, Alain	
Filed	: May 27, 2005	
Title	: METHODS OF IMPLANTING A PROSTHETIC HEART VALVE WITHIN A NATIVE HEART VALVE	
TC/A.U.	: 3774	
Examiner	: Suba Ganesan	
Docket No.	: PVI-5791CON2CIP2/61023/E303	
Customer No.	: 30452	

REQUEST FOR RECONSIDERATION

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Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
March 13, 2009

Commissioner:

Applicant filed a Petition on March 27, 2008 to accept an unintentionally delayed claim for benefit of priority to a prior filed application. The Petition was dismissed in a Decision mailed January 21, 2009. Applicant respectfully requests reconsideration.

On page 1, the Decision states that the Petition was not accompanied by the reference required by 35 U.S.C. §120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application. In particular, the Decision states that nonprovisional application No. 09/345,824 does not claim benefit of PCT/EP97/07337. Applicant respectfully disagrees.

Attached hereto is a Decision on Petition in Serial No. 09/345,824 granting applicant's Petition to Accept an Unintentionally Delayed Priority Claim to the extent that the USPTO records will be updated to identify the '824 application as a continuation of international

application PCT/EP97/07337. Accordingly, applicant respectfully submits that the Petition in the present application satisfies the requirements for a Petition Under 37 CFR 1.78(a)(3).

In addition, on page 2 of the Decision mailed January 21, 2009, it is noted that the Application Data Sheet submitted with the Petition on March 27, 2008 does not list the application number, i.e., 11/139,356. Accompanying this Request is an updated Application Data Sheet which includes the application number for the prior application status.

In view of the above, applicant respectfully requests reconsideration of the Decision mailed January 21, 2009 and grant of applicant's Petition to Accept the Unintentionally Delayed Claim to accord the above-identified application the benefit of the prior-filed applications. Specifically, applicant requests that the priority claim made in the present application be corrected so as to claim priority as a continuation-in-part of the following U.S. patent applications:

> U.S. Patent Application No. 10/139,741, filed May 2, 2002, now issued as U.S. Patent No. 6,908,481, which is a continuation of U.S. Patent Application No. 09/795,803, filed February 28, 2001, now abandoned, which in turn is a continuation of U.S. Patent Application No. 09/345,824, filed June 30, 1999, now abandoned, which is a continuation of International Patent Application No. PCT/EP97/07337, filed December 31, 1997, which designates the United States and was published in English by the International Bureau on July 9, 1998 as WO 98/29057, which claims priority to European Patent Application No. 96402929.2, filed December 31, 1996.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By
Mark Garscia
Reg. No. 31,953
626/795-9900

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MAR 17 2009

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MAR 17 2009

DAVID HAUSER
EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

In re Application of:	:	
Bruce LETAC, et al.	:	DECISION ON PETITION
Application No.: 09/345,824	:	(37 CFR 1.182)
Filing Date: June 30, 1999	:	
Attorney's Docket No.: 66066	:	
For: VALVE PROSTHESIS FOR IMPLANTATION IN BODY CHANNELS	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Accept An Unintentionally Delayed Priority Claim In U.S. Patent Application No. 09/345,824" and the "Request For Corrected Filing Receipt" filed 12 February 2008. Petitioner has submitted the required petition fee for the petition under 37 CFR 1.182.

BACKGROUND

On December 31, 1997, applicants filed international application PCT/EP97/07337. The international application claimed a priority date of December 13, 1996, and it designated the United States. On July 09, 1998, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO).

A Demand electing the United States was filed prior to the expiration of thirty months from the priority date. Accordingly, the deadline for submission of the basic national fee was thirty months from the priority date, i.e., June 31, 1999.

On June 30, 1999, applicants filed the present application in the United States. The transmittal letter filed with the application specifically identified the application as a continuation of international application PCT/EP97/07337 filed under 37 CFR 1.53(b). The transmittal letter also included an amendment requesting that the following sentence be added before the first line of the specification: "This is a continuation ... of prior International Application number PCT/EP97/07337, filed 31 December 1997 and designating the United States, which is hereby incorporated herein by reference in its entirety."

The filing receipt mailed in the present application identified the application as a national stage of PCT/EP97/07337 filed under 35 U.S.C. 371. The application was subsequently abandoned.

On 12 February 2008, petitioner filed the "Petition Under 37 CFR 1.182 To Accept An Unintentionally Delayed Priority Claim In U.S. Patent Application No. 09/345,824" and the "Request For Corrected Filing Receipt" considered herein. The petition requests that the priority claim be amended to identify the present application as a continuation of PCT/EP97/07337, rather than as a national stage application filed under 35 U.S.C. 371. The petition also requests entry of an amendment to the specification that modifies the reference to the international application contained in the first line of the specification (i.e., the reference contained in the amendment filed with the original application papers on June 30, 1999, quoted above). The Request for Corrected Filing Receipt requests that a corrected filing receipt be issued that properly identifies the application as a continuation application and corrects a spelling error in the title listed on the previous filing receipt.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c) (see 37 CFR 1.495(g): "The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111;", see also MPEP section 1893.03(a)).

The materials filed to initiate the present application did not identify the application as a national stage application filed under 35 U.S.C. 371. Rather, as noted above, the submission clearly identified the application as a continuation of the international application filed under 37 CFR 1.53(b).[1] The materials filed herein are therefore inconsistent with the intent to enter the national stage under 35 U.S.C. 371. Accordingly, the original papers filed on June 30, 1999 are properly treated as a continuation of international application PCT/EP97/07337 filed under 35 U.S.C. 111(a), rather than as a U.S. national stage application filed under 35 U.S.C. 371. USPTO records will be corrected accordingly, and a corrected filing receipt that properly identifies the application as a continuation application will be issued.[2]

As noted above, the present submission also requests entry of a proposed amendment to the specification. An abandoned application such as the present application may be amended to include a revised continuity reference pursuant to a grantable petition under 37 CFR 1.182. Petitioner has submitted the petition fee required for such a petition; accordingly, the proposed amendment is considered below.[3]

A grantable petition to amend an abandoned application must include the required petition fee and a sufficient showing that such amendment is necessary and appropriate. Here,

---

[1] 37 CFR 1.53(b) applies to non-provisional applications filed under 35 U.S.C. 111(a), not to national stage applications filed under 35 U.S.C. 371.

[2] It is noted that the examiner corrected the bibliographic data sheet in the application file to indicate that the application was a continuation of the PCT application; however, it does not appear that this correction was processed further.

[3] Applicant argues that the petition fee should not be required because the proper priority claim was present in the application as filed. However, the petition fee is necessary for consideration of the request to enter the proposed amendment, as opposed to the request to correct the priority claim.

the first sentence of the application (as amended prior to abandonment) contains a proper continuity reference with respect to the international application, specifically: "This is a continuation of prior International Application number PCT/EP97/07337, filed 31 December 1997 and designating the United States, which is hereby incorporated herein by reference in its entirety." As discussed above, regardless of any further amendment of the present application, USPTO records herein will be corrected to indicate that the application is a continuation application filed under 35 U.S.C. 111(a), rather than a national stage application under 35 U.S.C. 371, and a corrected filing receipt will be issued.

The additional language that applicants seek to add to the specification through the proposed amendment (i.e., that the international application designated the United States and was published in English) is not necessary for the priority reference to be effective. Such language was required by a previous version of 37 CFR 1.78; however, this requirement was removed when 37 CFR 1.78 was subsequently amended, and the removal of this requirement applies to all applications, even those filed prior to the amendment of 37 CFR 1.78. See Federal Register, Vol. 66, No. 249, December 28, 2001, at 67091:

> Except where the terms of §1.55 and §1.78 indicate that a provision of §1.55 and §1.78 applies only to applications filed before, on, or after November 29, 2000, ... the provisions of §1.55 and §1.78 as now amended are applicable to applications filed before, on, or after November 29, 2000. For example, ... the elimination of the requirement that if the application claims the benefit of an international application, the first sentence of the specification must include an indication of whether the international application was published under PCT Article 21(2) in English ... appl[ies] to applications filed before, on, or after November 29, 2000.

Based on the above, it does not appear that the further amendment to the continuity reference proposed by applicants in the present petition is sufficiently necessary to justify the amendment of the abandoned application. Thus, applicants' petition is appropriately dismissed to the extent that it seeks entry of the proposed amendment included therewith.

CONCLUSION

Applicant's "Petition Under 37 CFR 1.182 To Accept An Unintentionally Delayed Priority Claim In U.S. Patent Application No. 09/345,824" petition is **GRANTED** only to the extent that USPTO records will be updated to identify the present application as a continuation of international application PCT/EP97/07337 filed under 35 U.S.C. 111(a), rather than as a national stage application filed under 35 U.S.C. 371.

The proposed amendment to the specification included with the present petition has not been entered.

A corrected filing receipt that properly identifies the application as a continuation of the international application (and which corrects the spelling error in the application title) will be issued.

The present application remains abandoned.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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A is a cont of B
B is a cip of C
C is a cont of D

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ONE EDWARDS WAY
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In re Application of
Alain Cribier
Application No. 11/139,356
Filed: May 27, 2005
Attorney Docket No. PVI-5971CON2CIP2

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 27, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Application Data Sheet filed with the petition.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The Application Data Sheet to claim benefit of priority to PCT/EP97/07337 is improper in this application as it lacks the proper chain of priority. In this regard, nonprovisional Application No. 09/345,824 does not claim benefit of PCT/EP97/07337.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044 45, 174 USPQ 417, 418 19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make

a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

In view of the above, petitioner must first correct the claim for benefit of priority to PCT/EP97/07337 if petitioner wishes to claim priority of that application in the present application.

The Application Data Sheet submitted with the petition on March 27, 2008 does not list the Application Number; i.e., 11/139,356. Petitioner must submit the Application Number for the prior Application Status.

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.

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petition Examiner
Office of Petitions

cc: Mark Garscia
Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

ADLER

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Bib Data Sheet

CONFIRMATION NO. 1357

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/139,356	05/27/2005 RULE	623	3774	PVI-5791CON2CIP2

APPLICANTS

Alain Cribier, Maromme, FRANCE;

**** CONTINUING DATA ***************************

This application is a CIP of 10/139,741 05/02/2002 PAT 6,908,481
which is a CON of 09/795,803 02/28/2001 ABN
which is a CON of 09/345,824 06/30/1999 ABN
which is a 371 of PCT/EP97/07337 12/31/1997

**** FOREIGN APPLICATIONS *********************

EUROPEAN PATENT OFFICE (EPO) EP96402929 12/31/1996

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 06/30/2005

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	FRANCE	19	12	3
35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged _____ Examiner's Signature Initials				

ADDRESS
30452

TITLE

Valve prosthesis for implantation in body channels

FILING FEE RECEIVED	FEES: Authority has been given in Paper	☐ All Fees
1590	No. _____ to charge/credit DEPOSIT ACCOUNT	☐ 1.16 Fees (Filing)
	No. _____ for following:	☐ 1.17 Fees (Processing Ext. of time)
		☐ 1.18 Fees (Issue)
		☐ Other _____
		☐ Credit

OIPE MAR 17 2009 PATENT & TRADEMARK OFFICE

PTO/SB/14 (07-07)
Approved for use through 06/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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SUPPLEMENTAL Application Data Sheet 37 CFR 1.76	Attorney Docket Number	PVI-5791CON2CIP2
	Application Number	11/139,356
Title of Invention	METHODS OF IMPLANTING A ~~TWO-PART~~ PROSTHETIC HEART VALVE WITHIN A NATIVE HEART VALVE	

The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76.
This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.

Secrecy Order 37 CFR 5.2

☐ Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

Applicant Information:

Applicant 1

Applicant Authority ◉ Inventor ○ Legal Representative under 35 U.S.C. 117 ○ Party of Interest under 35 U.S.C. 118

Prefix	Given Name	Middle Name	Family Name	Suffix
	Alain		Cribier	

Residence Information (Select One) ○ US Residency ◉ Non US Residency ○ Active US Military Service

City	Maromme	Country Of Residence[i]	FR

Citizenship under 37 CFR 1.41(b)[i] FR

Mailing Address of Applicant:

Address 1	2 rue Alain		
Address 2			
City	Maromme	State/Province	FR
Postal Code	FR-76150	Country[i]	FR

All Inventors Must Be Listed - Additional Inventor Information blocks may be generated within this form by selecting the **Add** button. Add

Correspondence Information:

Enter either Customer Number or complete the Correspondence Information section below. For further Information see 37 CFR 1.33(a).

☐ **An Address is being provided for the correspondence Information of this application.**

Customer Number	30452		
Email Address		Add Email	Remove Email

Application Information:

Title of the Invention	METHODS OF IMPLANTING A ~~TWO-PART~~ PROSTHETIC HEART VALVE WITHIN A NATIVE HEART VALVE		
Attorney Docket Number	PVI-5791CON2CIP2	Small Entity Status Claimed	☐
Application Type	Nonprovisional		
Subject Matter	Utility		
Suggested Class (if any)	623	Sub Class (if any)	002.1
Suggested Technology Center (if any)	3738		
Total Number of Drawing Sheets (if any)	18	Suggested Figure for Publication (if any)	

PTO/SB/14 (07-07)
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SUPPLEMENTAL Application Data Sheet 37 CFR 1.76	Attorney Docket Number	PVI-5791CON2CIP2
	Application Number	11/139,356
Title of Invention	METHODS OF IMPLANTING A ~~TWO-PART~~ PROSTHETIC HEART VALVE WITHIN A NATIVE HEART VALVE	

Publication Information:

☐	Request Early Publication (Fee required at time of Request 37 CFR 1.219)
☐	**Request Not to Publish.** I hereby request that the attached application not be published under 35 U.S.C. 122(b) and certify that the invention disclosed in the attached application **has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.

Representative Information:

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32).
Enter either Customer Number or complete the Representative Name section below. If both sections are completed the Customer Number will be used for the Representative Information during processing.

Please Select One:	◉ Customer Number	○ US Patent Practitioner	○ Limited Recognition (37 CFR 11.9)
Customer Number	30452		

Domestic Benefit/National Stage Information:

This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78(a)(2) or CFR 1.78(a)(4), and need not otherwise be made part of the specification.

Prior Application Status	Patented				Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)	Patent Number	Issue Date (YYYY-MM-DD)
11/139,356	Continuation in part of	10139741	2002-05-02	6908481	2005-06-21
Prior Application Status	Abandoned				Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)		
10139741	Continuation of	09795803	2001-02-28		
Prior Application Status	Abandoned				Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)		
09795803	Continuation of	09345824	1999-06-30		
Prior Application Status	~~Pending~~				Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)		
~~09345824~~	~~a 371 of international~~	~~PCTEP9707337~~	~~1997-12-31~~		
Prior Application Status	Pending				Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)		
09345824	Continuation of	PCTEP9707337	1997-12-31		

Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the Add button.

PTO/SB/14 (07-07)
...ved for use through 08/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

SUPPLEMENTAL Application Data Sheet 37 CFR 1.76	Attorney Docket Number	PVI-5791CON2CIP2
	Application Number	11/139,356
Title of Invention	METHODS OF IMPLANTING A ~~TWO-PART~~ PROSTHETIC HEART VALVE WITHIN A NATIVE HEART VALVE	

Foreign Priority Information:

This section allows for the applicant to claim benefit of foreign priority and to identify any prior foreign application for which priority is not claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(a).

Remove

Application Number	Country [i]	Parent Filing Date (YYYY-MM-DD)	Priority Claimed
EP96402929.2	EP	1996-12-31	(•) Yes ( ) No

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button.

Assignee Information:

Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of Title 37 of the CFR to have an assignment recorded in the Office.

Assignee 1

If the Assignee is an Organization check here. ☐

Prefix	Given Name	Middle Name	Family Name	Suffix

Mailing Address Information:

Address 1			
Address 2			
City		**State/Province**	
Country [i]		Postal Code	
Phone Number		Fax Number	
Email Address			

Additional Assignee Data may be generated within this form by selecting the **Add** button.

Signature:

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.

Signature	Mark Garscia			Date (YYYY-MM-DD)	03/13/09
First Name	Mark	Last Name	Garscia	Registration Number	31,953

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MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of

PASRICHA, Sudeep et al.
Application No. 11/139,370
Filed: May 26, 2005
Attorney Docket No. **UC1.PAU.67**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 02, 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 Joseph C. Andras on behalf of all attorneys of record who are associated with customer No. 23386. 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 Sudeep Pasricha at the address indicated below.

There is an outstanding Office action mailed June 03, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SUDEEP PASRICHA**
3113 VERANO PLACE
IRVINE, CA 92617

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P.O. BOX 7021, SUITE 330
TROY MI 48007-7021

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Tripps et al.	:	
Application No. 11/139372	:	DECISION
Filing or 371(c) Date: 05/26/2005	:	ON PETITION
Attorney Docket Number: CDC-13103/38	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 1008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 30, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 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 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 1648 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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IL01/3RD
SCHAUMBURG IL 60196

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of
Rudy M. Emrick et al.
Application No. 11/139,400
Filed: May 27, 2005
Attorney Docket No. **CML02276CR**
(001.2078)

ON PETITION

This is a decision on the petition filed August 21, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned July 11, 2007 for failure to timely pay the issue fee on or before July 10, 2007. Accordingly, a Notice of Abandonment was mailed August 6, 2007.

The issue fee, publication fee and petition fee have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b) a grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Carey, Rodriguez, Greenberg & Paul, LLP
Steven M. Greenberg
950 Peninsula Corporate Circle
Suite 3020
Boca Raton, FL 33487

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NOV 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Geoffrey M. Clemm et al. :
Application No. 11/139,403 : DECISION ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. LOT920040047US1 :
(005)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 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 June 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 6, 2008. A Notice of Abandonment was mailed on December 23, 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. The electronic signature of Steven Greenberg on the petition is not proper because a registration number was not provided.

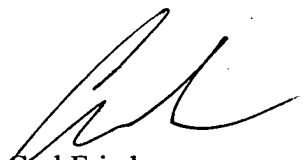
Further correspondence with respect to this matter should be addressed as follows:

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

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Carey, Rodriguez, Greenberg & Paul, LLP
Steven M. Greenberg
950 Peninsula Corporate Circle
Suite 3020
Boca Raton, FL 33487

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MAR 15 2010

In re Application of	:	
Geoffrey M. Clemm et al.	:	
Application No. 11/139,403	:	DECISION ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. LOT920040047US1 (005)	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 6, 2008. A Notice of Abandonment was mailed on December 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 an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2191 for appropriate action by the Examiner in the normal course of business on the reply received December 29, 2008.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Stephen R. Christian
P.O. Box 1625
Idaho Falls ID 83415-3899

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Weseman, et al. :
Application No. : 11/139,426 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. B-413 :

This is a decision on the petition under 37 CFR 1.182, filed September 11, 2007, for withdrawal of terminal disclaimer.

The petition is **GRANTED**.

The instant petition has been carefully considered and found convincing. Accordingly, the nullification of the previously recorded terminal disclaimer is deemed an appropriate course of action.

This application is being forwarded to Technology Center 2800 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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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Sami Issa et al :
Application No. 11/139,452 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. TI-36834 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

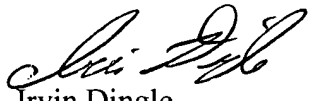
A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 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). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.



Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	11/139,452	ISSA ET AL.	
	Examiner	Art Unit	
	NGHIA M. DOAN	2825	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *0* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *14*.
   Claim(s) rejected: *1-13,15 and 17-25*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jack Chiang/
Supervisory Patent Examiner, Art Unit 2825

Continuation of 11. does NOT place the application in condition for allowance because: the amendment filed 7/30/08 is not just an incorporation of claim 14 into claim 1. There is additional amendment canceling some claimed limitations in both claims 1 and 14, this might have broadened the claim. Therefore, further consideration and/or search might be needed..

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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JAN 13 2009

In re Application of :
Sami Issa et al :
Application No. 11/139,452 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. TI-36834 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 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 fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2825 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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/139,506	05/31/2005	Jyrki Alamaunu	004770.00365	1665

22907 7590 12/22/2009

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER	
TORRES, JOSEPH D	

ART UNIT	PAPER NUMBER
2112	

MAIL DATE	DELIVERY MODE
12/22/2009	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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TECHNOLOGY CENTER 2100

BANNER & WITCOFF, LTD
1100 13TH STREET, N.W.
Suite 1200
WASHINGTON, DC 20005-4051

In re Application of: ALAMAUNU, et al.
Application No. 11/139,506
Attorney Docket No. 004770.00365
Filed: May 31, 2005
For: BUFFERING OF DATA FROM A DATA STREAM HAVING ERROR CORRECTION ELEMENTS

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is in response to the petition filed on September 3, 2009, under 37 CFR §1.181, for review of the Examiner's objection of claim 3 in the Office action mailed July 7, 2009.

A petition under this section must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. The petition filed September 3, 2009 includes elements (1) and (2) above.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

On July 7, 2009, the Examiner issue a final Office action, rejection all pending claims (1 and 3-12) and objected to claim 3 under 37 CFR § 1.75(C).

On September 3, 2009, the instant petition was filed under 37 CFR §1.181.

On October 10, 2009, a notice of appeal and pre-appeal brief request for review were filed.

RELIEF REQUESTED

The instant petition under 37 CFR 1.181 requests the following relief: to declare that the Examiner's objection to claim 3 as being of improper dependent claim form for failing to further limit the subject matter of the previous claim, made in the final Office action mailed on July 7, 2009, is improper and should be withdrawn, prior to appeal.

BASIS OF OPINION

The relevant portions of the Statutes and Rules are reproduced below. Emphasis is added to draw attention to critical phrases.

> **37 CFR § 1.75 Claim(s).**
> (a) The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery.
> (b) More than one claim may be presented provided they differ substantially from each other and are not unduly multiplied.
> **(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application.** Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes under § 1.16, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. In addition to the other filing fees, any original application which is filed with, or is amended to include, multiple dependent claims must have paid therein the fee set forth in § 1.16(j). Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.
>
> **35 U.S.C. 112 <fourth paragraph>**
> Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

Petitioner argues that the Office action applied an incorrect standard in concluding that claim 3 is not a proper (further limiting) dependent claim. Moreover, Petitioner argues that there is no requirement that a dependent method claim recite an additional step in order to further limit a base claim.

Claim 3 recites:

> The method of claim 1, wherein the first number is 191, the second number is 1,024, the third number is 64, each APDT cell holds 8 bits, and each RSDT cell holds 8 bits.

From MPEP 608.01(n)(III): INFRINGEMENT TEST
The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends (35 U.S.C. 112, fourth paragraph) or in other words that it shall not conceivably be infringed by anything which would not also infringe the basic claim.

A dependent claim does not lack compliance with 35 U.S.C. 112, fourth paragraph, simply because there is a question as to (1) ***the significance of the further limitation added by the dependent claim,*** or (2) whether the further limitation in fact changes the scope of the dependent claim from that of the claim from which it depends. The test for a proper dependent claim under the fourth paragraph of 35 U.S.C. 112 is whether the dependent claim includes every limitation of the claim from which it depends. The test is not one of

whether the claims differ in scope.

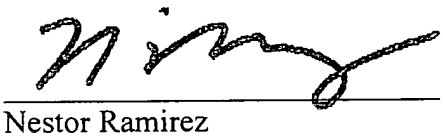
A review of dependent claim 3 reveals that it clearly includes each and every limitation of the claim from which it depends (claim 1), based upon the limiting preamble recitation "method of claim 1" and it does not subtract or remove previously recited limitations found in claim 1. As a result, claim 3 cannot conceivably be infringed without infringing the basic claim (claim 1, the claim from which it depends) and thus passes the Infringement Test. In addition, although the claim does not recite "an additional step" in order to limit the method steps of claim 1, as stated by the Examiner to be the test for a proper dependent claim, it does recite more particular and more detailed limitations from those found in claim 1. Under both of these conditions, claim 3 is viewed to be a proper dependent claim.

DECISION

Thus, in accordance with the above discussion, the petition is **GRANTED**. Therefore, the objection to claim 3 as being an improper dependent claim, mailed in the final Office action of July 7, 2009, is hereby **WITHDRAWN**.

The application is being forwarded to the Examiner for appropriate action and treatment of the pre-appeal brief request for review filed October 10, 2009, consistent with this decision.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.



Nestor Ramirez
Director
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.
11/139,506	05/31/2005	Jyrki Alamaunu	004770.00365	1665

22907 7590 12/22/2009

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER	
TORRES, JOSEPH D	

ART UNIT	PAPER NUMBER
2112	

MAIL DATE	DELIVERY MODE
12/22/2009	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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DEC 22 2009

TECHNOLOGY CENTER 2100

In re Application of: ALAMAUNU, et al.
Application No. 11/139,506
Attorney Docket No. 004770.00365
Filed: May 31, 2005
For: BUFFERING OF DATA FROM A DATA STREAM HAVING ERROR CORRECTION ELEMENTS

) DECISION ON PETITION FOR
) SUPERVISORY REVIEW REGARDING
) FINALITY OF RESTRICTION
) REQUIREMENT UNDER 37 CFR
) §1.144

This is in response to the petition filed on September 03, 2009, under 37 CFR §1.144 requesting supervisory review of the finality of a restriction requirement made in the non-final Office action mailed on December 29, 2008. Note, A petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not requested (see §1.181).

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) A restriction requirement was mailed on July 03, 2008, in which claims 1-43 were subject to restriction requirement.

(2) On July 29, 2008 a response to the restriction requirement was filed in which Applicant provisionally elected with traverse (Group I, claims 1-12). Applicant provided reasons in support of the traversal, including a discussion of M.P.E.P. § 806.05(j) regarding a proper restriction disclosed between two or more related inventions.

(3) On December 29, 2008, the Examiner issued a first non-final Office action on the merits, in response to Applicant's election, wherein pending claims 13-43 were withdrawn. This Office action determined the requirement for restriction to be proper and therefore made the requirement FINAL.

(4) On March 25, 2009, an amendment and remarks were filed.

(5) On July 7, 2009, the Examiner issued a final Office action rejection.

(6) On September 03, 2009, the instant petition was filed by Petitioner, under 37 CFR §1.144.

RELIEF REQUESTED

The instant petition under 37 CFR §1.144 requests the following relief: withdrawal of the restriction requirement of July 3, 2008 (the requirement having been made final in the non-final Office action of December 29, 2008) and action on all pending claims of record.

ANALYSIS

The relevant portions of the Statutes and Rules are reproduced below. Emphasis is added to draw attention to critical phrases.

M.P.E.P. § 802.01, meaning of "Independent" and "Distinct", which states:

> **I. INDEPENDENT**
> The term "independent" (i.e., **>unrelated<) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. For example, a process and an apparatus incapable of being used in practicing the process are independent inventions. See also MPEP § 806.06 and § 808.01.
> **II. > RELATED BUT< DISTINCT**
> Two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. Examples of related inventions include combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc. In this definition the term related is used as an alternative for dependent in referring to inventions other than independent inventions.
> Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art).

In addition, as set forth in M.P.E.P. § 803:

> **803 Restriction — When Proper**
> Under the statute>, the claims of< an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § **> 802.01, § 806.06, and § 808.01<) or distinct (MPEP § 806.05 - § *> 806.05(j)<).
> If the search and examination of **>all the claims in an< application can be made without serious burden, the examiner must examine *>them< on the merits, even though **>they include< claims to independent or distinct inventions.

806.05(a) Combination and Subcombination

> A ***combination is an organization of which a subcombination or element is a part.***

M.P.E.P. § 806.05(d) Subcombinations Usable Together

> Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants.
> > To support a restriction requirement where applicant separately claims plural subcombinations usable together in a single combination and claims a combination that requires the particulars of at least one of said subcombinations, both two-way

distinctness and reasons for insisting on restriction are necessary. ***Each subcombination is distinct from the combination as claimed if***:
(A) the combination does not require the particulars of the subcombination as claimed for patentability (e.g., to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in another materially different combination. See MPEP § 806.05(c). Furthermore, restriction is only proper when there would be a serious burden if restriction were not required, as evidenced by separate classification, status, or field of search.
Where claims to two or more subcombinations are presented along with a claim to a combination that includes the particulars of at least two subcombinations, the presence of the claim to the second subcombination is evidence that the details of the first subcombination are not required for patentability (and vice versa). ***For example, if an application claims ABC/B/C wherein ABC is a combination claim and B and C are each subcombinations that are properly restrictable from each other, the presence of a claim to C provides evidence that the details of B are not required for the patentability of combination ABC.***

Petitioner provides arguments in support of the withdrawal of the election requirement including reference to: 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.

As well as to M.P.E.P. § 806.05(j), which states:

Related Products; Related Processes
To support a requirement for restriction between two or more related product inventions, or between two or more related process inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status in the art, or field of search. See MPEP § 808.02. See MPEP § 806.05(c) for an explanation of the requirements to establish two-way distinctness as it applies to inventions in a combination/subcombination relationship. For other related product inventions, or related process inventions, the inventions are distinct if
(A) the inventions as claimed do not overlap in scope, i.e., are mutually exclusive;
(B) the inventions as claimed ***are not obvious variants***; and
(C) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 802.01.
The burden is on the examiner to provide an example to support the determination that the inventions are distinct, but the example need not be documented. ***If applicant either proves or provides convincing evidence that the example suggested by the examiner is not workable, the burden is on the examiner to suggest another viable example or withdraw the restriction requirement.***

818.03(b) Must Elect, Even When Requirement Is Traversed

Should applicant traverse on the ground that the inventions <or species> ***are not patentably distinct, applicant should*** submit evidence or ***identify such evidence now of record showing the inventions*** <or 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.

In the restriction requirement mailed on July 03, 2008, the Examiner identified five groups or sets of claims and their indicated classification: Group I, claims 1-12 (drawn to a "method

comprising the steps of ..." classified in class 714, subclass 763); Group II, claims 13-24 (drawn to a "machine readable medium" with no identified classification); Group III, claims 25-39 (drawn to a "device comprising memory and a controller" classified in class 365 subclass 200); Group IV, claim 40 (drawn to a "mobile terminal" classified in class 714, subclass 38); and Group V, claims 41-43 (drawn to "one or more integrated circuits" classified in class 257, subclass 7). The requirement then identified the claims of Group I and Group II as being directed to related process and product with supporting rationale. Inventions Group I with Group III, Group I with Group IV, and Group I with Group V were all identified to be related as process and apparatus for its practice. Group II with Group III, Group II with Group IV and Group II with Group V were all identified to be related products. Finally, Group III and Group IV were identified to be related as subcombinations disclosed as usable together in a single combination. In addition, the requirement concluded with rationale as to why such a requirement would provide a serious burden upon the Examiner if restriction were not required.

Thus the Office action provides the reasons why each invention as claimed is deemed to be independent and distinct from the other as well as rationale as to why such a requirement would provide a serious burden upon the Examiner.

In response to the restriction requirement, Petitioner provided the following arguments and rationale in rebuttal. First, Applicant admitted on the record that the restriction requirement between Group I (claims 1-12) with Group II (claims 13-24) as well as the requirement between Group II (claims 13-24) with Group III (claims 25-39) do not have a patentable distinction therebetween i.e. that Groups I, II and III are obvious variants of each other. Therefore, in response to this admission on the record and in accordance with M.P.E.P. § 806.05(j) subpara. (B), the requirement between these groups must be withdrawn consistent with MPEP § 818.03(b).

Next, Petitioner proffered with respect to Group I (claims 1-12) with Group IV (claim 40) as well as Group I with Group V (claims 41-43), that the Examiner failed to satisfy the requirement set forth in MPEP § 806.05(e) section (A) which states: ***that the process as claimed can be practiced by another materially different apparatus or by hand***. The sole support offered by the Office action was that the "process (Group I) could be carried out by software". Since "software" is in fact neither an apparatus nor is practiced by hand, this requirement would not appear to be satisfied.

In addition, consistent with Petitioner's remarks with respect to the requirement between Group III (claims 25-39) and Group IV (claim 40), at least some of the claims appear to be mischaracterised in the restriction requirement. Note, claim 40 (identified as Group IV) appears to be directed to a combination of elements, i.e. a "mobile terminal" comprising "an antenna", "a receiver", "a memory" and "a controller coupled to the receiver and the memory" thus, does not appear to properly reflect one of two "***subcombinations useable together***" with the subcombination of Group III, as stated in the Office action. A claim with an organization of parts or elements is generally representative of a combination-type claim (see M.P.E.P. § 806.05(a) and (d) above).

For **at least** those reasons identified above, and in accordance with **at least** M.P.E.P. §§ 806.05(a), (d), (e), (j) and 818.03(b), the requirement mailed July 3, 2008 is therefore deemed to be improper.

The petition is **GRANTED**.

The application is being forwarded to the Technology Support Staff to **WITHDRAW** the final Office action mailed July 7, 2009 and then **FORWARD** to the Examiner for appropriate action i.e. consideration of all pending claims consistent with this decision.

Any inquiries related to this decision may be directed to the Brian Johnson at (571) 272-3595.

Nestor Ramirez
Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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ALFRED STADNICKI
ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

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JUN 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Ganesan et al.	:	DECISION ON PETITION
Application No. 11/139,512	:	TO WITHDRAW
Filed: May 31, 2005	:	FROM RECORD
Attorney Docket No. 23952-0029	:	

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 29, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that all previous powers of attorney were revoked by the assignee of the patent application on November 23, 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: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

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OFFICE OF PETITIONS

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 Suite 1800
Arlington, VA 22209

In re Application of :
Blake Keown et al. :
Application No. 11/139,523 : DECISION ON PETITION
Filed: May 31, 2005 : TO WITHDRAW
Attorney Docket No. 3350-91A-CNT1 : FROM RECORD
:

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 28, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and those practitioners have been revoked by the assignee of the patent application on August 8, 2005 and November 23, 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 Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

cc: Mr. Hans Dreyer
Director, Intellectual Property (Legal Department)
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

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TECHNOLOGY CENTER 3600

BERENATO, WHITE & STAVISH, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

In re Application of
Ramajois et al.

Appl. No. 11/139,533
Filed: May 31, 2005
For: GEAR HOUSING VENT

Petition to Withdraw Objection to Drawings Under 37 CFR 1.181

This is a decision on Applicant's Petition under 37 CFR 1.181 filed on March 13, 2007 to have reconsidered and withdrawn the objections to the drawings under 37 CFR 1.83(a).

The Petition is **GRANTED.**

In a Non-Final Office Action dated February 23, 2006 the drawings were objected to unders 37 CFR 1.83(a) for not showing every feature of the claimed invention. Specifically, claim 3 recites "a sidewall having at least one hole" and claim 4, depending from claim 3, recites "wherein said at least one hole...includes two holes...". The aforementioned Office Action objected to the drawings for not showing the claimed features of claim 4.

By way of the instant petition, the applicant argues that figures 1 and 2 of the present invention show a pair of vent holes 15 provided along through a side wall surface of the vent tube 3.

A review of both the drawings and claims indicated that where claim 3 requires "at least one hole", claim 4 simply serves to further limit claim 3 by in essence reciting at least two holes. Figures 1 & 2 clearly show at least two holes. Accordingly, the drawings comply with 37 CFR 1.83(a). The objection to the drawings is hereby withdrawn and the case forwarded to the examiner for further action.

The Petition is **GRANTED.**

Any questions regarding this decision should be directed to Richard Ridley at 571-272-6917.

Kathy Matecki
Director TC 3600
Technology Center 3600
572-272-6951

140

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 14, 2006

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/139548 Patent No.: 7,084,635 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Change editorial resulting from office error. L.M.A.

SPE — Art Unit 2859

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,084,635
APPLICATION NO.	:	11/139,548
ISSUE DATE	:	August 1, 2006
INVENTOR(S)	:	Hiroshi Morita et al.

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the face of the patent, in the section marked as (*), the following sentence should be deleted:

This patent is subject to a terminal disclaimer.

SEP 21 2006

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Mark J. Thronson
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403

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

OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER, BC V6B 1G1
CANADA

Mail Date: 04/20/2010

Applicant	: Lorne A. Whitehead	: DECISION ON REQUEST FOR
Patent Number	: 7591094	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,550	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **186** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

MAILED

JAN 19 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Masato HIRAI
Application No. 11/139560
Filed: May 31, 2005
Attorney Docket No. NEC-602-US/TN

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 December 11, 2006, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 25, 2007

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: **7112792 B2 – 11/139609**

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.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

ROBERT KIM
SUPERVISORY PATENT EXAMINER SPE

2881
Art Unit

Copy

Response to Rule 312 Communication	Application No.	Applicant(s)	
	11/139,609	AGEMURA ET AL.	
	Examiner	Art Unit	
	Zia R. Hashmi	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

1. ☒ The amendment filed on *3/09/2007* under 37 CFR 1.312 has been considered, and has been:

   a) ☐ entered.

   b) ☒ entered as directed to matters of form not affecting the scope of the invention.

   c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
   Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

   d) ☐ disapproved. See explanation below.

   e) ☐ entered in part. See explanation below.

Zia R. Hashmi.

3/26/07.t
4/30/07

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Lawrence M. Burns	: DECISION ON REQUEST FOR
Patent Number	: 7634244	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,619	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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ALFRED STADNICKI
ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of :
GANESAN, Ravi :
Application No. 11/139,627 : DECISION ON PETITION
Filed: May 31, 2005 : TO WITHDRAW
Attorney Docket No. **23952-0139** : FROM RECORD
:

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 June 27, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Antonelli Terry Stout and Kraus LLP was revoked by the assignee of the patent application on November 23, 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SUTHERLAND II**
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

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Commissioner for Patents
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/139,654	05/31/2005	Vanina Filippi	124058

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

DATE MAILED: November 7, 2006

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)
The declaration of/ express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d) filed on October 25, 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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OCT 29 2007

OFFICE OF PETITIONS

JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

In re Application of
Charles H. Glover, et al.
Application No. 11/139,660
Filed: May 31, 2005
Attorney Docket No. GLOV-0001-CP2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 4, 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 who are associated with customer No. 22506.

All attorneys/agents associated with the Customer Number 22506 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 Charles H. Glover at 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: MR. CHARLES H. GLOVER
POLYSHOCK
4845 CALICO ROAD
LENOIR, NC 28645

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OFFICE OF PETITIONS

PARKER INTELLECTUAL PROPERTY LAW OFFICE
536 PANTOPS CENTER
234
CHARLOTTESVILLE VA 22911

In re Application of :
Glover, et al. :
Application No. 11/139,660 : ON PETITION
Filed: May 31, 2005 :
Attorney Docket No. GLOV.01.CP1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 6, 2008.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed May 15, 2008. This Notice set a statutory period for reply of three (3) months. The Notice was mailed to the correspondence address of record in effect at that time (Charles Glover, 4845 Calico Rd, Lenoir NC 28645). Although applicant had filed a Power of Attorney and Change of Correspondence Address on

February 4, 2008, it was not entered because it was not signed by all of the applicants. No issue fee having been received, the application became abandoned on August 16, 2008. The Office mailed a Notice of Abandonment on September 16, 2008. On October 6, 2008, the law firm of Parker Intellectual Property Law Office filed the instant petition, asserting that they never received the Notice of Allowance. Applicants filed a Power of Attorney signed by the other co-inventor on March 11, 2009, appointing the law firm of Parker Intellectual Property Law Office with the power of attorney, and making them the correspondence address of record.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of a master docket record showing all his replies docketed for a due date of August 15, 2008, nor has petitioner stated that such a record does not exist. Rather, petitioner has only submitted a copy of the docket records for the instant application, together with a

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[1] MPEP 711.03(c).

copy of an incoming mail log. If no such master docket report exists, petitioner should so state on renewed petition. **Moreover, any such showing of non-receipt would need to come from the correspondence address in effect at the time the Notice of Allowance was mailed - Charles Glover, 4845 Calico Rd, Lenoir NC 28645.**

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PARKER INTELLECTUAL PROPERTY LAW OFFICE
536 PANTOPS CENTER
 # 234
CHARLOTTESVILLE VA 22911

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Charles H. GLOVER et al.	:	
Application No. 11/139,660	:	DECISION ON PETITION
Filed: May 31, 2005	:	
Attorney Docket No. GLOV.01.CP1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 16, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1) above.

The petition was not accompanied by the required issue fee of $755.00. A review of the Office records indicates that $720.00 was submitted as payment of the issue fee; however there is a fee deficiency of $35.00. Any fee amount paid on or after October 02, 2008 must be paid as shown in the revised fee schedule. No consideration on the merits can be given that petition until the required fees are received.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

PARKER INTELLECTUAL PROPERTY LAW OFFICE
536 PANTOPS CENTER
 # 234
CHARLOTTESVILLE VA 22911

In re Application of	:	
Charles H. GLOVER et al.	:	
Application No. 11/139,660	:	DECISION ON PETITION
Filed: May 31, 2005	:	
Attorney Docket No. GLOV.01.CP1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 04, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before August 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 16, 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 $720.00, (2) the petition fee of $755.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Allowance mailed August 15, 2008 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SONG K. JUNG
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N. W.
WASHINGTON DC 20006

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Yun-Bok Lee : DECISION GRANTING STATUS
Application No.11/139,666 :
Filed: May 31, 2005 : UNDER 37 CFR 1.47(A)
Attorney Docket No. 8734.420.00-US :
Title of Invention: In-plane Switching Liquid Crystal Display Device Having Circular Electrode :

This is in response to the petition under 37 CFR 1.47(a) filed September 15, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Yun-Bok Lee can not be reached or located and diligent effort has been used to locate the inventor. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Yun-Bok Lee
43-8 Daeheung-Dong
Mapo-Gu, Seoul
Republic of Korea

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of
Yun-Bok Lee
Application No.11/139,666
Filed: May 31, 2005
Attorney Docket No. 8734.420.00-US
Title of Invention: In-plane Switching Liquid Crystal Display Device Having Circular Electrode

: LETTER

Dear Mr. Lee :

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

SONG K. JUNG
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N. W.
WASHINGTON DC 20006

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STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON NY 11743

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JUN 0 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Braun, et al.
Application No. 11/139,716
Filed: May 27, 2005
Attorney Docket No. 3310
For: HAND POWER TOOL, IN PARTICULAR A DRILLING HAMMER AND/OR JACKHAMMER

This is a decision on the petition under 37 CFR 1.181, filed May 2, 2006 (certificate of mailing date April 27, 2006) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit an abstract in response to the July 18, 2005 Notice to File Corrected Application Papers, which set a two month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on September 19, 2005. A Notice of Abandonment was mailed on March 31, 2006.

Petitioners allege that the July 18, 2005 Notice not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the calendar system and docket record where the requirement would have been entered had the July 18, 2005 Notice been received. In addition, practitioner referenced the records in the petition and stated that a review of the application's file for the July 18, 2005 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for the re-mailing of the July 18, 2005 Notice to File Corrected Application Papers with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/21/2010

Applicant	: Raed H. Ahmad	: DECISION ON REQUEST FOR
Patent Number	: 7609024	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/139,736	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **665** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COURTNEY STANIFORD & GREGORY LLP
10001 N. DE ANZA BLVD., SUITE 300
CUPERTINO CA 95014

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
Syed Athar HUSSAIN, et al :
Application No. 11/139,744 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. ATEC.P011 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 5, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2628 for processing of the RCE in the normal course of business.

/dcg/
Diane C. 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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Alexandria, VA 22313-1450
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NOV 2 3 2009

OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

In re Application of :
Veronica Hradecky :
Application No. 11/139,755 : DECISION ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. **077550.0101** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 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 August 28, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 28, 2009. Accordingly, the date of abandonment of this application is August 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of 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 JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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Veronica Hradecky
129 Village Drive
Lewisville, TX 75067

Mail Date: 08/04/2010

Applicant	: Veronica Hradecky	: DECISION ON REQUEST FOR
Patent Number	: 7638740	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/139,755	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: 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

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Alexandria, VA 22313-1450
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Leonard A. Alkov, Esq.
Raytheon Company
P.O. Box 902 (E4/N119)
El Segundo, CA 90245-0902

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of
Vincenzini, Ernstoff, and DeWolf
Application No.: 11/139,757
Filed: May 27, 2005
Attorney Docket No: PD-01W143
For: **SYSTEMS ENGINEERING PARAMETRIC COST MODEL**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed May 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 and the petition under 37 CFR 1.47(a) were filed on May 27, 2004. Petitioner maintains that inventor Ernstoff is refusing to join the prosecution of the application.

Petitioner has shown that inventor Ernstoff has refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 25, 2007

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction on Patent No.: **7168993 B2 – 11/139768**

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

C of C captures missing references already considered by the examiner.

5/3/07

T Patel — **SPE**

2839 — **Art Unit**

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. : 7,168,993 B2

DATED : January 30, 2007

INVENTOR(S) : Hashim

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

U.S. Patent Documents

Including:	US-5,587,884	12/24/1996	Raman
	US-5,299,956	04/05/1994	Brownell et al.
	US-6,716,964	04/06/2004	Chinnadural
	US-5,362,257	11/08/1994	Neal et al.
	US-5,911,602	06/15/1999	Vaden
	US-6,443,777	09/03/2002	McCurdy et al.
	US-5,310,363	05/10/1994	Brownell et al.
	US-6,120,330	09/19/2000	Gwiazdowski
	US-5,971,813	10/26/1999	Kunz et al.
	US-5,779,503	07/14/1998	Tremblay et al.
	US-6,379,198	04/30/2002	Arnett et al.
	US-6,592,395	07/15/2003	Brown et al.
	US-5,618,185	04/08/1997	Aekins
	US-5,432,484	06/11/1995	Klas et al.
	US-5,414,393	05/09/1995	Rose et al.
	US-5,547,405	08/20/1996	Pinney et al.
	US-6,017,247	01/25/2000	Gwiazdowski
	US-5,326,284	07/05/1994	Bohbot et al.
	US-5,362,257	11/08/1994	Neal et al.

MAILING ADDRESS OF SENDER:
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

PATENT NO. 7,168,993 B2
No. of additional copies: 1

⇒

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.

MAR 12 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

ERIC RINGER
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
Sheldon Foss, Dwight Harris and :
Krishnamoorthy Srinivasan :
Application No. 11/139,772 :
Filed: May 27, 2005 :
Title: ON-US CASH WITHDRAWAL AT A :
POINT-OF-SALE :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 19, 2005.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 27, 2005 without an executed oath or declaration and naming Sheldon Foss, Dwight Harris and Krishnamoorthy Srinivasan as joint inventors.

Accordingly, on June 29, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on December 19, 2005, the instant petition and a four (4) month extension of time were filed by facsimile.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (2), as set forth above.

As 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. The declaration submitted December 19, 2005, does not set forth the citizenship, residence or mailing address of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a). Please note, the citizenship requirement is statutory and cannot be waived.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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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SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Sheldon Foss, Dwight Harris and :
Krishnamoorthy Srinivasan :
Application No. 11/139,772 : DECISION GRANTING PETITION
Filed: May 27, 2005 : UNDER 37 CFR 1.47(a)
For: ON-US CASH WITHDRAWAL AT A :
POINT-OF-SALE :

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 27, 2006.

The petition is **granted**.

Petitioner has shown that non-signing inventor Dwight Harris has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DWIGHT HARRIS
50 DOVER CLIFF WAY
ALPHARETTA, GA 30022

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of
Sheldon Foss, Dwight Harris and
Krishnamoorthy Srinivasan
Application No. 11/139,772
Filed: May 27, 2005
For: ON-US CASH WITHDRAWAL AT A
POINT-OF-SALE

Dear DWIGHT HARRIS:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ERIC RINGER
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

UNITED STATES PATENT AND TRADEMARK OFFICE

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McGuireWoods
1750 Tysons Blvd, Suite 1800
McClean, VA 22102

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AUG 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Barry MARTIN :
Application No. 11/139,791 : DECISION ON PETITION
Filed: May 31, 2005 : TO WITHDRAW
Attorney Docket No. 06840001C1 : FROM RECORD
:

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 22, 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 Luke Anderson on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole inventor Barry S. Martin at the address indicated below.

There is an outstanding Office action mailed March 21, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Barry S. Martin
11812 Alder Ridge Place
Glen Allen, VA 23059

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of
Tod R. Earhart et al.
Application No. 11/139,806
Filed: May 31, 2005
Attorney Docket No. INPH-0002-UT2

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. 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 Steven B. Kelber on behalf of himself. Steven B. Kelber has been withdrawn as attorneys or agents 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 undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Orum & Roth LLC
53 W. Jackson Boulevard
Suite 1616
Chicago IL 60604-3606

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of :
HANSEN, et al. :
Application No. 11/139,811 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. 14113 : 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 July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (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, Catherine L. Gemrich 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).

Applicant is reminded that there is no attorney of record at this time.

The correspondence address remains unchanged.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Joshua M. Hansen
2803 Larlin Drive
Everett, WA 98203

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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S.N. 11/139815

Date Mailed : August 13, 2008
Patent No. : 7,401,173 B1
Patent Issued : July 15, 2008
Inventor(s) : Colin-Whitby-Strevens
Title :METHOD AND APPARATUS FOR AUTOMATIC DETECTION AND HEALING OF SIGNAL PAIR CROSSOVER ON A HIGH PERFORMANCE SERIAL BUS

Re: Request for Certificate of Correction

A petition under C.F.R. 1.182 is required to correct the alleged error in an inventor's address, since the inventor's address is printed in accordance with the *"Residence Address in assigned patents or P.O. Box Address for not assigned patents"* on the Declaration. The error is the result of applicant's failure to comply with requirements that the complete and correct address be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

Any petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

Magdalene Talley
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (571)270-9942

Gazdzinski & Associates
11440 W. Bernardo Ct., #375
San Diego, CA 927127

MD/mt

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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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON MA 02109-2881

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of
Manz, et al.
Application No. 11/139,817
Deposited: May 27, 2005
Attorney Docket No. ADI-092C1
For: FULL BEARING 3D CUSHIONING SYSTEM

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed July 8, 2005 (certificate of mailing date July 6, 2005), requesting that the above-identified application be accorded a filing date of May 27, 2005.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on May 27, 2005. On June 27, 2005, the Office of Initial Patent Examination mailed a Notice informing applicants that no filing date had been accorded to the application papers deposited on May 27, 2005 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of May 27, 2005 on the basis that 4 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on May 27, 2005. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing May 27, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 4 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 4 sheets of drawings were filed on May 27, 2005. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $400.00 petition fee submitted on July 8, 2005 (certificate of mailing date July 6, 2005) will be refunded shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **May 27, 2005**, using the copy of the 4 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 4 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TECHNOLOGY CENTER 3600

DORSEY & WHITNEY LLP
ITELLECTURAL PROPERTY DEPARTMENT
250 PARK AVENUE
NEW YORK, NY 10177

In re application of : **DECISION ON PETITION**
Frederick E. Pollock III et al. : **TO MAKE SPECIAL**
Application No. 11/139,841 : **(ACCELERATED**
Filed: May 26, 2005 : **EXAMINATION)**
For: PROCESS, SYSTEM, SOFTWARE ARRANGEMENT AND STORAGE MEDIUM WHICH IS CAPABLE OF PROVIDING VARIOUS FINANCING OPTIONS

This is in response to the petition filed on May 26, 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: 04/30/2007

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Orum & Roth LLC
53 West Jackson Blvd.
Chicago IL 60604

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Bruce McKay Morton :
Application No. 11/139,843 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. 14160 : FROM RECORD
:

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 review of the file record indicates that Catherine L. Glemrich: (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, Catherine L. Glemrich 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).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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FERENC PAZMANDI
SIDLEY AUSTIN BROWN & WOOD LLP
SUITE 2000
555 CALIFORNIA STREET
SAN FRANCISCO CA 94104-1715

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Guillermo Daniel Garcia :
Application No. 11/139,865 : DECISION GRANTING PETITION
Filed: May 26, 2005 :
Attorney Docket No. 31188/81001 :

This is a decision on the petition, filed June 16, 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 present nonprovisional application is the subject of a foreign or international application filed on May 26, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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 under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the

due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(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 or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is December 25, 2008 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $770.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2615 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

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EDWARDS ANGELL PALMER & DODGE, LLP
P.O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of :
Jeffrey Lange :
Application No. 11/139,873 : ON PETITION
Filed: May 31, 2005 :
Attorney Docket No. 83134(302929) :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2008, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on January 18, 2008. A Notice of Abandonment was mailed on October 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and $220 for independent claims in excess of three; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Revocation of Power of Attorney with New Power of Attorney and Correspondence Address filed on December 8, 2008 has been accepted and made of record. A Notice of Acceptance accompanies this decision.

This application file is being referred to Technology Center Art Unit 3693 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/139,873	05/31/2005	Jeffrey S. Lange	83134(302929)

CONFIRMATION NO. 3794

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

POA ACCEPTANCE LETTER

OC000000034229408

Date Mailed: 01/27/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/08/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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FEB 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,225,710
Issue Date: June 5, 2007
Application No. 11/139,887
Filed: May 27, 2005
Attorney Docket No. SYSNT-0007

DECISION ON PETITION

This is a decision on the PETITION TO CORRECT NAME OF ASSIGNEE ON ISSUED PATENT, filed July 5, 2007, which is being treated as a request under 37 CFR 3.81(b) to correct the assignment information on the front page of the above-identified patent by way of Certificate of Correction. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

In the present petition, petitioner asserts that the assignee's name, Synthes (U.S.A.), was incorrectly designated on form PTOL-85B. Petitioner requested that the Office correct the assignee's name to Synthes (U.S.A.) on the front page of the above-identified patent by way of a Certificate of Correction.

The Office Assignment records indicate that an assignment from Raymond A. Pacheco Jr. to Synthes (U.S.A.) was recorded on August 16, 2005 at Reel 016640, Frame 0093. Thereafter, an assignment from Synthes (U.S.A.) to Synthes GmbH was recorded on February 15, 2007 at Reel 018894, Frame 0512. Therefore, it appears that Synthes GmbH was the assignee at the time the patent issued. Furthermore, it is noted that the front page of the Letters Patent correctly identifies Synthes GmbH, as the assignee.

As the patent issued with the correct assignment information, Synthes GmbH, Oberdorf (CH), it would be improper to issue a Certificate of Correction identifying Synthes (U.S.A.). Accordingly, the petition is **dismissed** to the extent indicated above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 3.81(b)," as well as a completed Certificate of Correction. No additional fee is necessary for filing a request for reconsideration.

Alternatively, petitioner may request a refund of the $130.00 processing fee and the $100.00 certificate of correction fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request for a refund.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted with the Electronic Filing System of the USPTO.

Telephone inquiries specific to this decision may be directed to Diane Goodwyn at (571) -272-6735.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petition

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Patent No. 7,225,710
Issue Date: June 5, 2007
Application No. 11/139,887
Filed: May 27, 2005
Attorney Docket No. SYSNT-0007

DECISION ON PETITION

This is a decision on the RENEWED PETITION TO CORRECT NAME OF ASSIGNEE ON ISSUED PATENT, filed May 19, 2009, which is being treated as a request under 37 CFR 3.81(b) to correct the assignment information on the front page of the above-identified patent by way of Certificate of Correction.

In the renewed petition, petitioner has requested reconsideration of the previous decision dated February 29, 2009. The previous decision stated the front page of the Letters Patent correctly identifies the assignee's name as, Synthes GmbH, and further that Synthes GmbH was the assignee at the time the patent issued. Petitioner maintains that Synthes USA, LLC is the proper assignee and as evidence, has provided a copy of a Request for a Corrected Notice of Recordation of Assignment Document, dated March 19, 2009.

A review of the Office record shows the Request for a Corrected Notice of Recordation of Assignment Document was not received until after the patent issued. Accordingly, issuance of a certificate of correction would not be proper.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 3.81(b)," as well as a completed Certificate of Correction. No additional fee is necessary for filing a request for reconsideration.

Alternatively, petitioner may request a refund of the $130.00 processing fee and the $100.00 certificate of correction fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request for a refund.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted with the Electronic Filing System of the USPTO.

Telephone inquiries specific to this decision may be directed to Diane Goodwyn at (571) -272-6735.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petition

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of Robb et al. :
Application No. 11/139,903 : Decision on Petition
Filing Date: May 27, 2005 :
Attorney Docket No. 5569/85425 :

This is a decision on the petition under 37 CFR 1.181 filed January 13, 2009, requesting the Office withdraw the holding of abandonment. This is also a decision on the petition filed in the alternative under 37 CFR 1.137(b) on January 13, 2009.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Facts

The Office mailed a Notice of Allowance on September 8, 2008.

Petitioner filed a Request for Continued Examination (RCE) on December 3, 2008. The RCE was accompanied by:

(1) A paper titled "Information Disclosure Statement" (IDS) (3 pages),
(2) Form PTO/SB/08a (3 pages).

As to item (1), the IDS identified patents and a published application, identified the first named inventor for the patents and the application, and provided an issue date for the patents and the application. The IDS was not signed. The IDS did not include a column providing a blank space for the examiner's initials next to each document to be considered.

As to item (2), Form PTO/SB/08a was inadvertently left blank.

The IDS stated,

> The last two references cited in this Information Disclosure Statement were cited in the Search Report Under Section 17 (British Application No. GB0601320.5) which issued on August 30, 2006, a copy of which is attached.

Although the petition states a copy of the British Search Report was filed with the RCE, Office records indicate a copy of the British Search Report was not filed with the RCE.

A Notice of Improper Request for Continued Examination was mailed December 18, 2008. The Notification stated the RCE was improper because "[t]he request was not accompanied by a submission as required by 37 CFR 1.114." The Notice also indicated the time period set forth in the Notice of Allowance continued to run. The Notice of Improper Request for Continued Examination was mailed after the last day the day the issue fee could have been timely paid (December 8, 2008).

The instant petition was filed January 13, 2009.

Discussion

The submission (IDS) was not signed and did not include a "column that provides a space, next to each document to be considered, for the examiner's initials," as required by 37 CFR 1.98(a)(1)(ii). Therefore, the IDS failed to comply with *at least* one requirement of 37 CFR 1.98. The Office notes the IDS was also unsigned.

Petitioner cites 37 CFR 1.97(f) and MPEP 710.02(c) in support of an assertion that, if the IDS was defective, petitioner should have been given time to correct the defect. However, the cited regulation and section of the MPEP only indicate, if part of an IDS is inadvertently missing, an examiner has the discretion to set a new time period for the applicants to correct the IDS.

37 CFR 1.97(f) states, with emphasis added,

> No extensions of time for filing an information disclosure statement are permitted under § 1.136. If a bona fide attempt is made to comply with § 1.98, but part of the required content is inadvertently omitted, additional time **may** be given to enable full compliance.

MPEP 710.02(c)(B) states, with emphasis added,

> Where an information disclosure statement complies with the requirements set forth in 37 CFR 1.97 (including the requirement for fees or statement under 37 CFR 1.97(e) based upon the time of filing), but part of the content requirement of 37 CFR 1.98 has been inadvertently omitted, the examiner **may** set a 1-month time limit for completion of the information disclosure statement. The failure to timely comply will not result in abandonment of the application, but will result in the information disclosure statement being placed in the application file with the noncomplying information not being considered. See MPEP § 609.05(a).

Although the rule and MPEP section quoted above are relevant, other sections of the MPEP are more relevant in view of the fact the IDS was filed as the submission for a RCE.

MPEP 706.07(h)(VI) discusses the action to be taken by the Office when a RCE is accompanied by a not fully responsive submission.

MPEP 706.07(h)(VI) states,

> If the submission is a *bona fide* attempt to provide a complete reply, applicant **should** be informed that the submission is not fully responsive to the final Office action, along with the reasons why, and given a new shortened statutory period of one month or thirty days (whichever is longer) to complete the reply. See 37 CFR 1.135(c). Form paragraph 7.42.08 set forth below should be used.

Form paragraph 7.42.08 states,

> Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on **[1]**. The submission, however, is not fully responsive to the prior Office action because **[2]**. Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period for reply supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a).

The Examiner Note following the above form paragraph states, with emphasis added,

> Use this form paragraph to acknowledge an RCE filed with the fee and a submission where the submission is not fully responsive to the prior Office action. This form paragraph may be used for any RCE filed with a submission which is not fully responsive, i.e., an RCE filed after final rejection, **after allowance**, after an Office action under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935), or after appeal.

In the context of a RCE being filed with a defective submission after appeal but before the issuance of a decision on the appeal, MPEP 706.07(h)(X)(A) states, with emphasis added,

> If the RCE is accompanied by a fee (37 CFR 1.17(e)) and a submission that includes a reply which is responsive within the meaning of 37 CFR 1.111 to the last outstanding Office action, the Office will withdraw the finality of the last Office action and the submission will be entered and considered. If the submission is not fully responsive to the last outstanding Office action but is considered to be a bona fide attempt to provide a complete reply, applicant **will** be notified that the submission is not fully responsive, along with the reasons why, and will be given a new time period to complete the reply (using form paragraph 7.42.08). See 37 CFR 1.135(c) and subsection VI.

Since the IDS was filed as the submission for a RCE, *if* the IDS (submission) was a *bona fide* submission, the Office should have informed petitioner the submission was defective, provided the reasons the submission was defective, and given petitioner a new shortened statutory period of one month or thirty days (whichever is longer) to supply a proper IDS.

In this case, the record fails to include any assertion by the examiner that the submission filed with the RCE on December 3, 2008, was not a *bona fide* submission. A review of the record

indicates the Notice of Improper Request for Continued Examination was signed by Tina Bell. The examiner of record in this case is Bentsu Ro. Even if the Notice has been signed by Ro, the notice fails to assert the submission was not a *bona fide* submission.

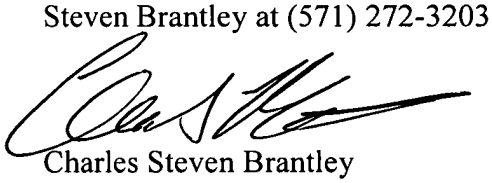
The undersigned contacted the examiner on April 10, 2009. The examiner has reviewed the case and has informed the undersigned the submission filed December 3, 2008, was a *bona fide* submission.

Since the IDS was a *bona fide* submission, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner's request to have the petition considered under 37 CFR 1.137(b) is not necessary and the petition is dismissed as moot. The petition fee for the petition under 37 CFR 1.137(b) has been credited back to petitioner's deposit account.

Technology Center Art Unit 2837 will be informed of the instant decision and the application, including the Request for Continued Examination filed December 3, 2008, and the corrected Information Disclosure Statement papers filed January 13, 2009, 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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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
11/139,904	05/26/2005	3736	1475	496682000101	8	51	5

CONFIRMATION NO. 2555

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

CORRECTED FILING RECEIPT

OC000000016798411

Date Mailed: 08/17/2005

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 Hular, San Carlos, CA;
Luiz Da Silva, Danville, CA;
Charles Chase, Dublin, CA;

Assignment For Published Patent Application

BioLuminate, Inc., San Carlos, CA

Power of Attorney: The patent practitioners associated with Customer Number **25226**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/947,171 09/04/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 06/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/139,904

Projected Publication Date: 11/24/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Multisensor probe for tissue identification

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DIANA HOUSTON
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS TN 38116

MAILED

MAR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Bergin et al.	:	DECISION ON
Patent Number: 7,575,603	:	COMMUNICATION REGARDING
Issue Date: 08/18/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/139926	:	and
Filing or 371(c) Date: 05/27/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 10557/301485	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 7, 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 three (703) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred three (703) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is 448 days, not 447 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), May 28, 2008, and ends on August 18, 2009, the date the patent issued, or 448 days[1].

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.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for

[1] Applicant has also improperly excluded from the "B" period as overlap applicant delay of six (6) days.

changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred ten (**710**) days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: KILPATRICK STOCKTON LLP
1100 PEACH STREET, SUITE 2800
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,575,603 B2

DATED : **August 18, 2009**

INVENTOR(S) : Bergin 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 392 days.

Delete the phrase "by 392 days" and insert – by 710 days--

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

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AUG 07 2006

OFFICE OF PETITIONS

In re Application of :
James Jay Tanner et al :
Application No. 11/139,928 : DECISION GRANTING PETITION
Filed: May 27, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21,157 :

This is a decision on the petition, filed July 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\139928.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS SD 57117

MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of :
FREDRICKSON et al. :
Application No. 11/139,937 : DECISION ON PETITION
Filed: 05/27/2005 :
Attorney Docket No. 30672 (25-0155) :

This is a decision on the petition under 37 CFR.1.181, filed February 9, 2009, to withdraw 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 nonfinal Office action, mailed June 20, 2008, which set a three-month shortened statutory period for reply. On December 31, 2008, the Office mailed a Notice of Abandonment.

Petitioner stated that he timely mailed a reply and a request for an extension of time for response within the third month via USPS Express Mail Service, accompanied by a certificate of mailing dated Monday, December 22, 2008. The certificate of mailing, signed by the depositor, Jeffrey A. Proehl, certified that an amendment, a petition for extension of time, a check in the amount of $555.00, and a return postcard, were being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 (Express Mail Label No. EH518840812US) on the December 22, 2008.

A review of the file reveals that the USPTO received the reply and the request for an extension of time for response within the third month, which included a certificate of mailing date of December 22, 2008. Furthermore, an independent search of the USPS Track and Confirm Database confirmed that the package bearing Express Mail Label No. EH518840812US was deposit with the USPS on December 22, 2008. Thus, the reply is

considered timely filed on December 22, 2008,[1] with the request for an extension of time for response within the third month. See 37 CFR 1.8(a), 1.10(c) and 1.136(a).

Accordingly, the petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a proper response was timely submitted.

The matter is being referred to Technology Center Art Unit 3723 for a review of the reply.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] When the last day for taking any action or paying any fee in the Office falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the action or the fee is considered timely if the action is taken or the fee is paid on the next succeeding business day.

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ERIC RINGER
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of :
Sheldon H. Foss, Jr., Dwight Harris and :
Krishnamoorthy Srinivasan :
Application No. 11/139,940 : DECISION REFUSING STATUS
Filed: May 27, 2005 : UNDER 37 CFR 1.47(a)
Title: DYNAMIC FEE STRUCTURING IN A :
STORED VALUDE CARD PROGRAM :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 16, 2005.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 27, 2005 without an executed oath or declaration and naming Sheldon H. Foss, Jr., Dwight Harris and Krishnamoorthy Srinivasan as joint inventors.

Accordingly, on June 24, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on December 16, 2005, the instant petition and a four (4) month extension of time were filed by facsimile.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (2), as set forth above.

As 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. The declaration submitted December 19, 2005, does not set forth the citizenship, residence or mailing address of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a). Please note, the citizenship requirement is statutory and cannot be waived.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Sheldon H. Foss, Jr., Dwight Harris and :
Krishnamoorthy Srinivasan :
Application No. 11/139,940 : DECISION GRANTING PETITION
Filed: May 27, 2005 : UNDER 37 CFR 1.47(a)
For: DYNAMIC FEE STRUCTURING IN A :
STORED VALUDE CARD PROGRAM :

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed February 27, 2006.

The petition is **granted**.

Petitioner has shown that non-signing inventor Dwight Harris has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DWIGHT HARRIS
50 DOVER CLIFF WAY
ALPHARETTA, GA 30022

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APR 0 6 2006

OFFICE OF PETITIONS

In re Application of
Sheldon H. Foss, Jr., Dwight Harris and
Krishnamoorthy Srinivasan
Application No. 11/139,940
Filed: May 27, 2005
For: DYNAMIC FEE STRUCTURING IN A
STORED VALUDE CARD PROGRAM

Dear DWIGHT HARRIS:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ERIC RINGER
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
P.O. BOX 88148
ATLANTA, GA 30356

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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MAR 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Lutz Lohmann	:	
Application No. 11/139,974	:	DECISION GRANTING PETITION
Filed: May 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 38412-214439	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 18, 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 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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SEP 11 2007

OFFICE OF PETITIONS

In re Application of :
THIES, et al. :
Application No. 11/139,975 : DECISION ON PETITION
Filed: May 31, 2005 : TO WITHDRAW
Attorney Docket No. **543822015500** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on July 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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: **ESCHWEILER & ASSOCIATES LLC**
NATIONAL CITY BANK BUILDING
CLEVELAND, OH 44114

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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of :

Wolfgang Rosner et al. :
Application No. 11/139,976 : DECISION ON PETITION
Filed: May 31, 2005 : TO WITHDRAW
Attorney Docket No. 543822015300 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Deborah S. Gladstein and the attorneys associated with customer number 25227 has been revoked by the assignee of the patent application on July 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Eschweiler & Associates, LLC
National City Bank Building
Cleveland, OH 44114

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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
Wolfgang Rosner et al.
Application No. 11/139,977
Filed: May 31, 2005
Attorney Docket No. 543822015400

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 13, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Deborah S. Gladstein and all attorneys/agents of record has been revoked by the assignee of the patent application on July 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

A final rejection was mailed on June 18, 2007. Failure to timely respond 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: Eschweiler & Associates, LLC
National City Bank Building
Cleveland, OH 44114

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 7418902 B2

DATE : 1/7/09

Paper No.: —

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/139991 Patent No.: 7418902 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes to the title are not approved as the current title is more clearly indicative of the invention to which the claims are directed.

/Judy Nguyen/ **SPE**

2854 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 04/21/2010

Applicant	: Oh-Kyong Kwon	: DECISION ON REQUEST FOR
Patent Number	: 7573441	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **985** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 05/18/2010

Applicant : Oh-Kyong Kwon
Patent Number : 7573441
Issue Date : 08/11/2009
Application No: 11/140,013
Filed : 05/27/2005

: 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 **1069** 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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P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED

OCT 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
John Knopf et al	:	
Application No. 11/140,024	:	DECISION GRANTING PETITION
Filed: May 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PHPH-P01-005	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 26, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 21, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant	: Stephen E. Terry	: DECISION ON REQUEST FOR
Patent Number	: 7584397	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,034	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/140,039	05/27/2005	Thomas K. Reusche	14809US03	2680

23446 7590 02/08/2008

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER	
NGUYEN, TRINH T	

ART UNIT	PAPER NUMBER
3644	

MAIL DATE	DELIVERY MODE
02/08/2008	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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Commissioner for Patents
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FEB 0 7 2008

TECHNOLOGY CENTER 3600

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

In re Application of
Thomas K. Reusche et al.
Application No. 11/140,039
Filed: May 27, 2005
For: WATER AGITATION SYSTEM FOR WATER RETENTION STRUCTURE

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is in response to applicants' petition filed under 37 CFR 1.144 received September 12, 2007 requesting a review of the restriction requirement made final in Office action mailed August 17, 2007 and that the restriction requirement be withdrawn.

The petition is **GRANTED-IN-PART.**

A review of the record indicates that the examiner required a restriction between inventions I (claims 1-31 and 36-44) drawn to an apparatus and invention II (claims 32-35) drawn to a method for attracting wildlife. With respect to the apparatus claims, the examiner further required an election between inventions IA (claims 1-17), IB (claims 18-31) and IC (claims 36-44). Applicants elected invention IA with traverse in the response filed April 4, 2007. The examiner, upon reconsideration, adhered to the election requirement and made the requirement final in the Office action mailed August 17, 2007. This petition was then timely filed.

Applicants' petition alleges that the restriction requirement is improper because there is no serious burden on the examiner as inventions I and II are both in the same class and that inventions IA, IB and IC are all within the same subclass. Applicants assert that these inventions are not separately classified, nor do they have separate status in the art, nor do they require a different field of search.

Applicants have failed to show that a search is the only criteria for determining "serious burden" on the part of the examiner. Nevertheless, it should be noted that the search for and examination, including consideration of and responses to arguments, of multiple inventions in the same application creates a serious burden on the examiner.

It is also noted that the method claims require an interrelationship of the elements. However, no such relationship is required by the apparatus claims. Infringement may exist with one invention while not with the other. For example, a room containing a radio and an aquarium tank with a water pump positioned within a liquid retention area of the tank would infringe of the apparatus

but unless the radio is playing when the water pump is on, it would not infringe the method claims since the method requires "causing a generation of sounds during at least a portion of the time when the liquid is in motion." Therefore, if the radio is never turned on, it would not be infringing on the method claims.

For the foregoing reasons, the examiner's restriction requirement between method and apparatus for its practice is proper.

With respect to the restriction between inventions IA, IB and IC, the examiner's reason for distinctness is that they are subcombinations useable together in a single combination. In order for the restriction to be proper, each of the inventions recited in groups IA, IB and IC must make up a smaller part of a combination. As each invention recites an agitator/agitation assembly and an audio source, then the combination formed by the three inventions must include three agitators/agitation assembly and three audio sources. However, such is not the case as the disclosed invention is a water agitation system comprising an agitation assembly and an audio sources. Accordingly, the restriction between inventions IA, IB and IC is improper and is hereby withdrawn.

In view of the findings noted above, withdrawn claims 18-31 and 36-44 are reinstated. It is noted that applicants have filed a response to the August 17, 2007 Office action. Accordingly, the application will be returned to the examiner for consideration of the claims with the next Office action, which will be non-final.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-7045

sm/tl: 1/18/08

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DEC 07 2009

JOSEPH M. BUTSCHER
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Reuache et al. : DECISION ON PETITION
Application No. 11/140,039 : REGARDING RESTRICTION
Filed: May 27, 2005 : REQUIREMENT
Attorney Docket No.: 14809US03 :
For: **WATER AGITATION SYSTEM FOR WATER RETENTION STRUCTURE**

Applicants' petition filed on February 11, 2009 requests withdrawal of the election requirement as set forth in the Office action mailed July 29, 2008 and thereafter made final in the Office action mailed January 2, 2009. Applicants further request an examination on the merits of all pending claims.

The petition is **Granted**.

A review of the record reveals that the Office action mailed July 29, 2008 set forth an election requirement with the elected claims of 1-31 and 36-44 and further requiring a provisional election between twelve species identified as (1) Fig. 2-9, (2) Fig. 11, (3) Figs. 12, (4) Fig. 13, (5) Fig. 14, (6) Fig. 15, (7) Fig. 16, (8) Fig. 17, (9) Fig. 18, (10) Fig. 19, (11) Figs 20-22, and (12) Fig 3. Applicants elected the species of (9) of Fig. 18, and argue that Fig. 23 is part of Species (9), with traverse in the response filed August 19, 2008. Applicants identified claims 1-5, 7-13, 15, 18-19, 23-29, 31 and 36-41 as encompassing the elected species. The examiner, upon reconsideration, adhered to the election requirement and made the election requirement final. This petition was then timely filed.

Applicants' petition alleges that the election requirement is improper because there is no serious burden on the examiner because of the fact that the examiner has already examined claims 1-17 in the Office Action Mailed August 17, 2007. Applicant further argues that claims 20-22 and 42 are similar to claim 6, claim 30 is similar to claim 14, claim 43 is similar to claim 16, and claim 44 is similar to claim 17.

Upon close inspection of the claims, it is noted that claims 20-22 and 42 are indeed similar to claim 6, claim 30 is similar to claim 14, claim 43 is similar to claim 16, and claim 44 is similar to claim 17. Since the examiner has already searched and examined claims 1-17 as indicated in the Office action dated 8/17/07, it would not be serious burden to examine claims 20-22, 30, 42-44 as they are similar to claims 6, 14, 16 and 17. See MPEP 802.03 which states that "If the search and examination of all the claims in an application can be made without serious burden, the

examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

In view of the findings noted above, the restriction requirement with regard to claims 6, 14, 16-17, 20-22 and 30 is vacated and the above-noted withdrawn claims are reinstated. Accordingly, the application will be returned to the examiner to withdraw the finality of the Office action of November 17, 2009 and reopen prosecution for consideration of claims 6, 14, 16-17, 20-22 and 30.

The application is being forwarded to the examiner for consideration of the amendment filed February 11, 2009.

Any questions regarding this decision should be directed to Michael Mansen at 571-272-6608.

Katherene Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

Mrm/lm: 11/25/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 13, 2009

TO SPE OF : ART UNIT 3766 - SPE Carl H. Layno

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/140,068 Patent No.: 7,529,590 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments: THE CHANGES IN CLAIM DEPENDENCIES WOULD ALTER THE CLAIM TREE AS PROSECUTED BY THE EXAMINER. IT SHOULD BE NOTED THAT OLD CLAIM 3 IS NOW NEW CLAIM 9. CHANGING CLAIM DEPENCIES WOULD CREATE NEW COMBINATIONS NOT SEARCHED/PROSECUTED BEFORE.

Carl H. Layno 11/30/2009

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

Patent No.: 7,529,590 B2
Applicant : Stuart G. MacDonald
Issued : May 5, 2009
For : **ELECTROMAGNETIC INTERFERENCE IMMUNE PACING/DEFIBRILLATION LEAD**

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 Rules 1.322.

Respecting the alleged errors in claims 14 and 15 to change the dependencies. The changes in claim dependencies would alter the claim tree as prosecuted by the examiner. It should be noted that old claim 3 is now new claim 9. Changing claim dependencies would create new combinations not searched/prosecuted before.

In view of the foregoing your request is hereby denied.

Further correspondence concerning this matter should be filed and directed to:

U.S. Department of Commerce
Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Certificate of Corrections Branch

For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

AJ

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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In re Application of	:	
Harinath GARUDADRI et al.	:	
Application No. 11/140,086	:	DECISION ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. **040582**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 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 pay the issue and publication fees on or before November 23, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed August 21, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 24, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) in that Issue and Publication fees have not been paid, as required by the Notice.

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely

submit the issue fee are mutually exclusive. See Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a Request for Continued Examination (RCE) without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof. The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See In re Mills, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

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OFFICE OF PETITIONS

In re Application of	:	
Dwight Oliver Lintz, Jr. et al.	:	
Application No. 11/140,106	:	DECISION GRANTING PETITION
Filed: May 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CHAP.0123	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 29, 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 August 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 should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2113 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Davis appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Davis desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until

---

[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.*

otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **THE LAW OFFICE OF E. ALAN DAVIS**
5828 VAN WINKLE LANE
AUSTIN, TX 78739

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JUL 22 2005

James T. Robinson
EXCLUSIVITY-LAW, INC.
222 East Main Street
Norman, OK 73069-1303

In re Application of:
William Bruce Keller
Serial No. 11/140,108
Filed: May 27, 2005
For: PICKUP BED COVER

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed May 27,2005 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 VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that the present invention contributes to energy conservation and improved fuel economy by reducing drag exerted by an empty pickup bed and the tailgate integral therewith.

These statements, which evidence more efficient utilization and development of energy resources, are adequate to establish for the record that the invention "materially contributes to the development of energy resources".

For the above stated reasons, the petition is **GRANTED.**

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a

prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6611

KJD/mng 7/14/05

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Daniel M. Cislo
CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

In re Application of: CASEY	:
Appl. No.: 11/140,120	: DECISION ON PETITION to
Filed: May 27, 2005	: make SPECIAL under 37 CFR
For: WHEELED ABDOMINAL EXERCISER	: 1.102

This is a decision on the petition filed on May 27, 2005 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is DISMISSED.

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that applicant will make an election without traverse of claim 1 and all dependent and other claims acceptable for prosecution therewith; c) a statement that a pre-examination search has been made in Classes 482, 35, 297, 487, 280, D12, D21, numerous subclasses in each class; d) a PTO-1449 IDS listing references considered pertinent; and e) a detailed discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (c) and (d) are considered to have been met. With respect to MPEP § 708.02(VIII) (c), it is respectfully noted that at least two of the listed classes, class 35 and class 487 have been abolished and do not presently exist within the US Classification system. Petitioner may desire to update his records accordingly.
The petition does not, however, meet the requirements of MPEP § 708.02(VIII)(b) and (e).

MPEP § 708.02(VIII)(b) requires petitioner to state that all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a

single invention, applicant will make an election without traverse. Petitioner does state that all claims are directed to a single invention, or that if the Patent Office determines that all of the claims presented are not obviously directed to a single invention, then applicant will make an election without traverse "*of claim 1 and all dependent and other claims acceptable for prosecution therewith*". It is not clear what applicant "agrees to" because during prosecution the Office, not the applicant, makes a restriction requirement when appropriate. It is not clear what would be encompassed by "all dependent and other claims acceptable for prosecution therewith". All that need be agreed to by applicant is that an election without traverse will be made. Should applicant desire to preemptively elect within the petition, as statement to the effect of "election of the first claimed invention" would be appropriate in as much as it is the Office who determines restriction and particular claim groupings.

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Applicant provides a detailed discussion of each reference cited on form PTO-1449 IDS but does not point out the particular language of the claims that distinguishes from these references. Applicant's general allegation that

> " The claims of the present patent application are patentable over the foregoing reference in that the present claims recite, *inter alia*, a flexible region or portion on the strut or the use of a wheel against tension which moves away from the seated user during an exercise. Additionally or in the alternative, the claims of the present patent application are patentable over this reference in that the present claims recite, *inter alia*, the step of sting on a stationary chair or bench during an exercise while the device moves away from the seated user."

does not satisfy the requirements of 37 CFR § 1.111 (c). To meet the requirements of 37 CFR § 1.111 (c), each independent claim must be compared with each reference, and the patentable novelty in each independent claim relative to each reference must be clearly pointed out. Because the petition does not point out the specific language in each independent claim that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

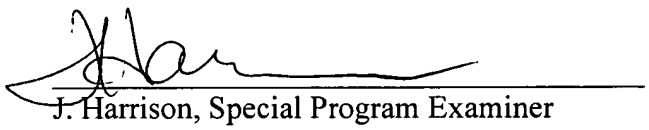
For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn. .

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide: i) a statement that all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention,

applicant will make an election without traverse; and ii) a detailed discussion of each reference that clearly points out the specific language in each independent claim that distinguishes over the reference as required under 37 CFR § 1.111(c) as discussed hereinabove.

Any inquiry regarding this decision should be directed to Jessica Harrison, Special Program Examiner, at (571) 272-4449.

Petition DISMISSED



J. Harrison, Special Program Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Daniel M. Cislo
CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

DEC 0 5 2006

In re Application of: CASEY
Appl. No.: 11/140,120
Filed: May 27, 2005
For: WHEELED ABDOMINAL EXERCISER

: DECISION ON PETITION to
: make SPECIAL under 37 CFR
: 1.102

This is a decision on the July 31, 2006 request for reconsideration of the petition filed on May 27, 2005 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is Granted.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02 (VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, Applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection that would require broadening the field of search will be treated as an improper response. See MPEP 708.02 (VIII) for a full explanation of the handling of applications after petition grant.

Any inquiry regarding this decision should be directed to J. Harrison at 571-272-4449.

Petition GRANTED

J. Harrison, Special Program Examiner
Technology Center 3700 – Mechanical Engineering, Manufacturing and Products

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wong, Cabello, Lutsch, Rutherford & Brucculeri, LLP
20333 SH 249
Suite 600
Houston, TX 77070

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of :
Todd K. Whitehurst et al. :
Application No. 11/140,126 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. 3013-0141 (05-00575-03) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Laura Haburay Bishop and Bryant R. Gold and all attorneys/agents has been revoked by the assignee of the patent application on August 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There are no outstanding Office actions at this time.

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: Advantedge Law Group, LLC
3301 N. University Avenue
Suite 200
Provo, UT 84604

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JJGJR.: 09-05

Paper No: __

ERIC HANSCOM
7395 PORTAGE WAY
CARLSBAD CA 92011

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of :
Swaab :
Application No. 11/140,141 : DECISION ON PETITION
Filing Date: 31 May, 2005 :
Attorney Docket No. Frank, Utility 1 :

This is a decision on the letter considered as a petition (in light of the attached fee form so identifying the letter as such) filed 7 July, 2005, under 37 C.F.R. §1.53.

The petition is **DISMISSED**.

BACKGROUND

The instant nonprovisional application papers as deposited on 31 May, 2005, consisted of nineteen (19) unnumbered pages of text, two of which also contain drawings/figures in the form of charts identified as Table1, Table 2 and Table 3, four (4) unnumbered pages of sequentially numbered (1 - 19) claims, an unnumbered single page of abstract, and an additional page of drawings/figures, also containing text and identified as Table 4.

On 28 June, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Items indicating that the application had been accorded a filing date, but that Figures Tables 1 - 3 appeared to have been omitted from the application.

OIPE further informed Petitioner that he might:

- accept the application in the form that it was found to have been deposited;

- submit the omitted items and accept the date of submission as the filing date; or

- via petition seek to obtain the original date of deposit as the filing date of the alleged omitted items upon a showing of receipt by the Office of those items (i.e., with a date-stamped receipt card consistent with the commentary at MPEP §503[1]).

In reply, the instant petition[2] was filed on 7 July, 2005, with, *inter alia*:

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

[2] Other than the letterhead name and contact information and the date and addressee information, the only other content of the letter taken as a petition is as follows:

> July 4, 2005
>
> To Whom It May Concern:
>
> In response to the attached Notice of Omitted Items, I would like to point out that the Tables 1 - 3 in the Notice were included in the original patent application. I included these tables in the specification since there were not drawings in the traditional sense. I have attached copies of the relevant pages of the specification *as submitted*, so that you can see that Tables 1 - 3 were indeed included, and I have also "cut and pasted" them onto separate sheets of paper if you would prefer to see them separate from the text.

- a copy of a date-stamped ("053105") but clearly altered receipt card;[3]
- copies of pages that are alleged in Petitioner's letter to be those as filed, but also have been altered now to contain additional matter, including page numbers; and
- individual sheets identified as Table 1, Table 2 and table 3.

Notably, Petitioner's receipt card acknowledges that only one sheet of drawings was submitted.

Petitioner's attention is drawn to, *inter alia*, the provisions of 37 C.F.R. §1.58 and §1.84 as to the form and content of tables and drawings.

As required by 35 U.S.C. §111 and §112, the filing date of a nonprovisional application is the date that a *specification, at least one claim and such drawings as are required to understand the invention* (as prescribed by 35 U.S.C. §113 and any drawing required by 37 C.F.R. §1.81) are filed in the U.S. Patent and Trademark Office.[4]

While the instant application was entitled to–and was given–a filing date, the (drawing/figures) Tables 1 - 3 submitted were, as acknowledged by Petitioner, incorporated by him into the specification rather set apart unto themselves.

Petitioner's receipt card indicates that only one drawing was submitted by Petitioner and received by the Office, and further, Petitioner's receipt card and other materials submitted with the instant petition have been altered and are inconsistent with what was submitted on deposit on 31 May, 2005.

CONCLUSION

The instant petition as considered under 37 C.F.R. §1.53 hereby is **dismissed**.

Further, the additional drawings and pages of specification submitted by Petitioner on 7 July,

---

I believe that it will be appropriate that my petition fee is refunded.

Thank you in advance
/s/Eric Hanscom
Eric Hanscom
Attorney for Pierre Swaab

[3] Petitioner's receipt card indicates that there are at least two inventors, however, the oath/declaration indicates an inventive entity of a single inventor, but part of the name (i.e., "Frank") included as the name of a second inventor identified on the receipt card.

[4] See 37 C.F.R. §1.53(c).

2005–some of them in an altered condition and inconsistent with materials as originally deposited–will not be entered.

Moreover, because:

- the Notice of Omitted Items was not incorrect as to Petitioner's failure to file the indicated drawings separately; and

- Petitioner elected to file a petition where none was required,

the petition fee will not be refunded.

The application is being released to the Office of Initial Patent Examination for further processing as necessary, consistent with this decision, before being forwarded for substantive examination in due course.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Tod R. EARHART, et al :
Application No. 11/140,151 : DECISION ON PETITION
Filed: May 31, 2005 : TO WITHDRAW
Attorney Docket No. INPH-0002-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 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).

Steven B. Kelber has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bryant R. Gold
Laura Haburay Bishop
25129 Rye Canyon Loop
Valencia, CA 91355

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OFFICE OF PETITIONS

In re Application of
Todd K. Whitehurst, et al.
Application No. 11/140,152
Filed: May 27, 2005
Attorney Docket No. 3013-0140 (05-00887-03)

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 14, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop has been revoked by the assignee of the patent application on August 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Advantedge Law Group, LLC**
3301 N. University Ave.
Suite 200
Provo, UT 84604

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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In re Application of :
David C. HARGRAVE et al. :
Application No. 11/140,166 : DECISION ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. **ACIZ-P01-020** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 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 February 05, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 06, 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 $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of February 05, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3772 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE
OCT 24 2008
PATENT & TRADEMARK OFFICE
USPTO

PTO/SB/30 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	11/140,166
Filing Date	May 27, 2005
First Named Inventor	David C. Hargrave
Art Unit	3772
Examiner Name	M. A. Brown
Attorney Docket Number	ACIZ-P01-020

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

   a. [ ] Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

      i. [ ] Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

      ii. [ ] Other _____

   b. [x] Enclosed

      i. [x] Amendment/Reply

      ii. [ ] Affidavit(s)/Declaration(s)

      iii. [ ] Information Disclosure Statement (IDS)

      iv. [x] Other Petition for Revival of Unintentionally Abandoned Application

2. Miscellaneous

   a. [ ] Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

   b. [ ] Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

   a. [x] The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any Overpayments, to Deposit Account No. 18-1945 .

      i. [x] RCE fee required under 37 CFR 1.17(e)

      ii. [ ] Extension of time fee (37 CFR 1.136 and 1.17)

      iii. [x] Other Petition for Revival of Unintentionally Abandoned Application

   10/28/2008 MGEBREM1 00000025 181945 11140166
   02 FC:1081 810.00 DA

   b. [ ] Check in the amount of $ _____ enclosed

   c. [ ] Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

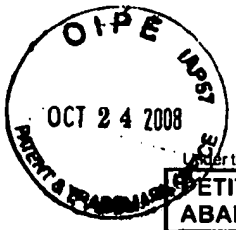
Signature	Charles Larsen	Date	October 24, 2008
Name (Print/Type)	Charles D. Larsen	Registration No.	48,533

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EM111662970US, on the date shown below in an envelope addressed to:
MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 10-24-08 Signature: Maura A. Gallagher (Maura A. Gallagher)

10-27-08

OIPE IAP57 OCT 2 4 2008 PATENT & TRADEMARK OFFICE



PTO/SB/64 (09-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) ACIZ-P01-020

First named inventor: David C. Hargrave

Application No: 11/140,166 Art Unit: 3772

Filed: May 27, 2005 Examiner: M. A. Brown

Title: ANKLE BRACE

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity – fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity – fee $ 1,620.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of An Amendment After Final and RCE (identify type of reply):

☒ has been filed previously on July 31, 2008 (fee).

☒ is enclosed herewith. (Reply)

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

10/28/2008 MGEBREM1 00000025 181945 11140166
01 FC:1453 1620.00 DA

Ext. 3

3. Terminal disclaimer with disclaimer fee

[x] Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

[ ] A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Charles Larsen
Signature

October 24, 2008
Date

Charles D. Larsen
Typed or printed name

48,533
Registration Number, if applicable

ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110
Address

(617) 951-7085
Telephone Number

Enclosures:
[x] Fee Payment
[x] Reply
[ ] Terminal Disclaimer Form
[ ] Additional sheets containing statements establishing unintentional delay
[x] Other: Request for Continued Examination

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EM111662970US, on the date shown below in an envelope addressed to:
MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 10-24-08 Signature: Maura A. Gallagher (Maura A. Gallagher)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EM111662970US, on the date shown below in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 10/24/08 Signature: Maura A. Gallagher
(Maura A. Gallagher)

OIPE
OCT 24 2008
PATENT & TRADEMARK OFFICE

Docket No.: ACIZ-P01-020
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Hargrave et al.

Application No.: 11/140,166 Confirmation No.: 3476

Filed: May 27, 2005 Art Unit: 3772

For: ANKLE BRACE Examiner: M. A. Brown

PETITION UNDER 37 CFR 1.137(B) FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to the Final Office Action dated February 5, 2008. Applicants submit this petition and respectfully request that the application be revived, as it was abandoned unintentionally through a clerical error.

As indicated in the Final Office Action, independent Claims 1 and 26 stood finally rejected, independent Claim 27 was allowed, and dependent Claim 14 was indicated to be allowable if rewritten to include all limitations of the base Claim 1. In the Applicants' Reply, filed July 31, 2008, Applicants followed the Examiner's suggestion and amended Claim 1 to incorporate the limitations of Claim 14, thereby obviating the rejections of all of claims 1-13 and 15-24. Applicants also intended to cancel Claim 26 and thereby put the application in condition for allowance. However, through a clerical error, Applicants' Reply inadvertently did not properly denote Claim 26 as being "cancelled" and inadvertently omitted the submission of a Request for Continuing

Examination or Notice of Appeal. As a result of the inadvertent omissions, which were unintentional, the application went abandoned as of August 5, 2008.

Applicants hereby respectfully request that the application be revived. Applicants submit that, as confirmed in the Examiner's Advisory Action of September 9, 2008, all of claims 1-13, 15-24, and 27-30 are or will be allowable. Applicants respectfully submit that the enclosed Reply, by cancellation of Claim 26, properly puts this application in condition for allowance. Applicants accordingly submit that the abandonment was inadvertent and respectfully request that the case be revived, that the amendments of the enclosed response under 37 C.F.R. 1.116 be entered along with the Request for Continued Examination, and that the Examiner issue a notice of allowance and pass the application to issuance.

Applicants believe no fee is due with this response other than as reflected on the enclosed Amendment Transmittal. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. ACIZ-P01-020 from which the undersigned is authorized to draw.

Dated: October 24, 2008

Respectfully submitted,

By Charles Larsen

Charles D. Larsen
Registration No.: 48,533
ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110
(617) 951-7000
(617) 951-7050 (Fax)
Attorneys/Agents For Applicant

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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UWE BEDNARZIK
150 CITRUS TREE LANE
LONGWOOD FL 32750

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of :
Uwe Harold Bednarzik :
Application No. 11/140179 : DECISION ON APPLICATION
Filing or 371(c) Date: 05/31/2005 : FOR PATENT TERM ADJUSTMENT
Title of Invention: INTERNAL PIPE :
REPAIR METHOD AND DEVICE :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 22, 2009. The application for patent term adjustment is properly treated under 37 CFR 1.705(b).

The application for correction of patent term adjustment is **DISMISSED**.

On October 16, 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 0 days.

On November 22, 2009, applicant timely submitted the present application for patent term adjustment[1]. Applicant avers that the application qualifies for a 266-day patent term adjustment in connection with a delay of the Office to fully respond to applicant's reply to a non-final Office action.

Applicant does not dispute reductions of 323 days (28 days, 89 days, 92 days or 87 days under 1.704(b), or a reduction of 27 days pursuant to 37 CFR 1.704(c)(8))[2].

Regarding applicant's assertion that the application qualifies for a 266-day patent term adjustment in connection with a delay of the Office to fully respond to applicant's reply to a non-final Office action, Office records reveal that applicant was assessed a reduction of 391 days in

[1] Office records show that the Issue Fee payment was received in the Office on November 22, 2009.
[2] Applicant provides that there were four (4) requests for extensions of time totaling 296 additional days, which apparently omits the reduction of 27 days pursuant to 37 CFR 1.704(c)(8), in connection with the filing of the "Signed Reply to office action sent 11/2/2005 for [the present application]." Applicant filed a signed first page of the Amendment on March 26, 2007, which was 27 days after filing the unsigned Amendment on March 2, 2006.

connection with applicant's reply to a non-final Office action, mailed November 2, 2005. Office records reveal further that applicant filed an unsigned Amendment in response to the Office action on March 2, 2006, and thereafter filed a signed first page of the Amendment on March 29, 2006. The Office mailed a Notice of Non-Compliant Amendment on March 26, 2007. Applicant filed an Amendment in response to the Notice of Non-Compliant Amendment on April 24, 2007. Pursuant to 37 CFR 1.704(c)(7), applicant was assessed a reduction of 391 days, from the day after the filing of the signed first page of the Amendment on March 29, 2006, to the filing of the reply to the Notice of Non-Compliant Amendment on April 24, 2007.

Applicant argues that the Office delayed in fully responding to applicant's reply after non-final, for 391 days. Applicant avers that the period of delay is 389 days, from March 2, 2006, to March 26, 2007. Applicant provides that applicant had apparently forgotten to sign the reply to the non-final Office action, filed on March 2, 2006. Applicant provides further that the Office notified Applicant of the omission on March 9, 2006; however, the Office neglected to inform applicant as to the remaining deficiencies until March 26, 2007. Applicant asserts that 389 days would have been saved had this Office fully notified applicant on March 9, 2006, as to all deficiencies in the reply to the non-final Office action filed March 2, 2006. Applicant calculates that an allowable response date of four (4) months would have been July 2, 2006, requiring an adjustment of 266 days, from July 3, 2006 to March 26, 2007.

37 CFR 1.704(c) provides, in pertinent part, that "[c]ircumstances 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: (7) Submission of a reply having an omission (§1.135(c)), 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 reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed."

Thus, the reduction of 391 days under 37 CFR 1.704(c)(7) commenced March 30, 2006, the date after the date that the reply having an omission was filed, and ended on the date that the reply or other paper correcting the omission was filed, April 24, 2007.

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.

Anthony Knight
Director
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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Qin Shi	: DECISION ON REQUEST FOR
Patent Number	: 7617105	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,190	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MICHAEL BUCHENHORNER, P.A.
8540 SW 83 STREET
SUITE 100
MIAMI, FL 33143

Mail Date: 04/20/2010

Applicant	: Jian Wang	: DECISION ON REQUEST FOR
Patent Number	: 7647577	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,194	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1114** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALEXANDRIA, VA 22313-1450
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JUL 18 2005

In re Application of	:	
Walter G. Pearson	:	
Serial No. 11/140,228	:	DECISION ON PETITION
Filed: May 27, 2005	:	TO MAKE SPECIAL
For: PACKAGING SYSTEM AND RELATED METHOD	:	

Applicant's petition, filed May 27, 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

R. Andrew Patty II
Sieberth & Patty, LLC
4703 Bluebonnet Blvd.
Baton Rouge, LA 70809

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of :
Wilfred Langezaal et al :
Application No. 11/140,230 : DECISION ON PETITION
Filed: May 31, 2005 :
Attorney Docket No. 66692.000002 :

This is a decision on the petition filed October 16, 2009, which is being treated under 35 USC 1.55(c) for entry of priority papers submitted with the instant petition.

The petition is **Dismissed** as Moot.

The petition is dismissed as moot because Office records indicates that a priority claim was perfected upon filing of the above application on May 31, 2005, to European Patent Application No. 04076594.3, filed May 28, 2004.

The priority papers submitted with the above petition have been placed of record in the file.

Petitioner may request a refund of the petition fee submitted on October 16, 2009, by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request.

Any questions concerning this decision should be directed to the undersigned at (571) 272-3208.

The application file is being referred to Technology Center AU 1796 for consideration by the examiner on the reply received October 13, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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2222 WELLINGTON COURT
LISLE IL 60532

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JUN 06 2007

OFFICE OF PETITIONS

In re Application of :
Noda et al. :
Application No. 11/140,232 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. A5-027 US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 12, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 27, 2006

TO SPE OF : ART UNIT 2831 Hung V Ngo

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/140,250 Patent No.: 6995315 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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Dean A. Bechard 8/6/07 — **SPE**

2831 — **Art Unit**

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1500 E. LANCASTER AVENUE, SUITE 200
P.O. BOX 1027
PAOLI, PA 19301

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MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Scott M. O'BRIEN, et al. :
Application No. 11/140,262 :
Filed: May 27, 2005 :
Attorney Docket No. **Aemireddy 2-1-3-3-5-7** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 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, August 21, 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 November 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on February 27, 2009 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application is being referred to Technology Center Art Unit 2627 for consideration of the amendment filed February 27, 2009.

Inquiries regarding the status or examination of the application should be directed to the examiner.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Mark A. Reiley :
Application No. 11/140,263 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. 29914-701.302 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 8, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Wilson Sonsini Goodrich & Rosati has been revoked by the assignee of the patent application on January 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shay Law Group**
2755 Campus Drive
Suite 210
San Mateo, CA 94403

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Orum & Roth LLC
53 West Jackson Blvd.
Chicago IL 60604

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Perez :
Application No. 11/140,270 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. 14190 : FROM RECORD
:

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 review of the file record indicates that Catherine L. Glemrich: (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, Catherine L. Glemrich 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).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of :
Sergey B. Mirror, et. al. :
Application No. 11/140,271 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. 20674-085002/U2001-0096 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed November 1, 2007. A Notice of Abandonment was mailed on May 30, 2008.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $110 for a two month extension of time filed on July 30, 2008. However, 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 $110 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Since the address on the instant petition differs from the address of record, a courtesy copy of this decision is being mailed to the address on the petition. Thereafter, all future correspondence will mailed to the address of record.

This application file is being referred to Technology Center Art Unit 2822 for review of the amendment filed on April 1, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc Bing Ai
Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/30/09

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 11140271 Patent No.: 7548571

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: The Certicicate of Correction is APPROVED.

/M. Wilczewski/ 11/02/2009_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Orum & Roth LLC
53 W Jackson Boulevard
Suite 1616
Chicago IL 60604-3606

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OFFICE OF PETITIONS

In re Application of	:	
PEREZ	:	
Application No. 11/140,272	:	DECISION ON PETITION
Filed: August 27, 2005	:	TO WITHDRAW
Attorney Docket No. 14188	:	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 July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (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, Catherine L. Gemrich 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).

Applicant is reminded that there is no attorney of record at this time.

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

Telephone inquires 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

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of :
Uutela et al. :
Application No. 11/140,284 :
Filed: May 31, 2005 : ON PETITION
Attorney Dckt No: 029065.44833D1 :

This is a decision on the Petition for Resubmission of Drawing Figures, filed September 6,, 2005, requesting the above-identified application be accorded a filing date of May 31, 2005, including Figures 24-30 described in the specification.

The application was filed on May 31, 2005. On July 6, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, Figures 24-30 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that Figures 24-30 described in the specification were filed with the application on May 31, 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*, 24 sheets of drawings showing Figures 1-30 in the above-identified application by this Office on May 31, 2005.

A review of the return-receipt postcards reveal that Applicant is correct. The postcards acknowledges receipt of, *inter alia*, 24 sheets of drawings showing Figures 1-30 in the above-identified application by this Office on May 31, 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 Figures 24-30. The copy of Figures 24-30 filed with the instant petition on September 6, 2005, will be used for examination purposes.

No petition fee has been charged and none is due.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 31, 2005, and an indication that 24 sheets of drawings including Figures 24-30 were present on filing, using Figures 24-30 filed with the instant petition on September 6, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

MAILED

MAY 12 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Smith :
Application No. 11/140,306 :
Filed: May 31, 2005 :
Attorney Docket No. JSMIT-008A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned September 28, 2008 for failure to timely submit a proper reply to the final Office action mailed June 27, 2008. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time pursuant to 37 CFR 1.136(a) was submitted. Notice of Abandonment was mailed March 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required 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. 12/344,416.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

COPY MAILED

OCT 19 2007

OFFICE OF PETITIONS

In re Application of
Edmund F. Petruzzelli
Application No. 11/140,330
Filed: May 27, 2005
Attorney Docket No. 454032000100

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 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 Peter J. Yim on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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: ECHOSTAR TECHNOLOGIES CORPORATION
90 INVERNESS CIRCLE EAST
ENGLEWOOD, CO 80112

cc: CRAIG HEMENWAY
DORSEY & WHITNEY
REPUBLIC PLAZA BUILDING
370 17TH STREET
SUITE 4700
DENVER, CO 80202

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
11/140,330	05/27/2005	Edmund F. Petruzzelli	454032000100 (189299/US/2

CONFIRMATION NO. 3995

OC000000026195150

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 10/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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James E. Bradley
Bracewell & Giuliani LLP
P.O. Box 61389
Houston TX 77208-1389

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Basak et al. :
Application No. 11/140,332 :
Filed: May 27, 2005 :
For: BALLASTING OFFSHORE :
PLATFORM WITH BUOY ASSISTANCE :

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on September 1, 2005 (certificate of mailing dated August 30, 2005).

The petition is granted.

Applicant showed that the non-signing inventors could not be reached or refused to sign the declaration after having been presented with the application papers (specification, claims and drawings). Specifically, the Declaration of Facts of James E. Bradley indicated applicant mailed a copy of the application papers, a declaration and an assignment to the non-signing inventors at their last known addresses on two occasions; however, neither inventor executed and returned the documents. Applicant enclosed copies of the letters to the non-signing inventors, as well as a signed return, postal receipt from the certified mailing to non-signing inventor, Charles Cinotto.

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 present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 3673 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Charles Cinotto
614 Creek Drive
New Braunfels, TX 78130

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Basak et al. :
Application No. 11/140,332 :
Filed: May 27, 2005 :
For: BALLASTING OFFSHORE :
PLATFORM WITH BUOY ASSISTANCE :

LETTER

Dear Mr. Cinotto:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

James E. Bradley
Bracewell & Giuliani LLP
P.O. Box 61389
Houston TX 77208-1389

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Chandra Nair
14706 Knightsway Drive
Houston, TX 77083

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Basak et al. :
Application No. 11/140,332 :
Filed: May 27, 2005 :
For: BALLASTING OFFSHORE :
PLATFORM WITH BUOY ASSISTANCE :

LETTER

Dear Mr. Nair:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

James E. Bradley
Bracewell & Giuliani LLP
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Houston TX 77208-1389

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Christopher H. Heipp	: DECISION ON REQUEST FOR
Patent Number	: 7638760	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: 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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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
620 Eighth Avenue
NEW YORK, NY 10018

Mail Date: 04/20/2010

Applicant	: Poopathy Kathirgamanathan	: DECISION ON REQUEST FOR
Patent Number	: 7597926	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,338	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1059** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Albert van Zelst	: DECISION ON REQUEST FOR
Patent Number	: 7599332	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,349	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **784** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

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MAY 18 2009

OFFICE OF PETITIONS

In re Application of :
Barton et al. :
Application No. 11/140,359 :
Filed: May 26, 2005 :
Attorney Docket No. 78495DIV1(36-31 US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 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 Heller Ehrman LLP, has been revoked by the assignee of the patent application on November 2, 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: ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
1725 K STREET, N.W.
SUITE 2000
WASHINGTON, DC 20006

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of
Eiichi Mizuno et al
Application No. 11/140,362
Filed: May 31, 2005
Attorney Docket No. 050280

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 25, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional Application No. PCT/JP03/15776, as set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy items (1) and (3) above.

The reference to the above-noted, prior-filed PCT application is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date

(*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Additionally, the amendment is not acceptable since it fails to indicate where the amendment is to be placed as required by 37 CFR 1.78(a)(2)(ii); *i.e.,* insert in the first line of the specification following the title of the invention.

Further, the petition lacks the statement of unintentional delay as required by 37 CFR 1.78(a). The rule requires a statement that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional."

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
1725 K STREET NW
SUITE 2000
WASHINGTON, DC 20006

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JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Eiichi Mizuno et al	:	
Application No. 11/140,362	:	DECISION ON PETITION
Filed: May 31, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 050280	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 3,2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/JP03/15776, filed December 10, 2003, as set forth in the accompanying 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.

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to

the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 forwarded to the examiner of Technology Center Art Unit 2812 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/140,362	05/31/2005	2812	1000	050280	12	1

CONFIRMATION NO. 4201

CORRECTED FILING RECEIPT

OC000000024202921

23850
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

Date Mailed: 06/04/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Eiichi Mizuno, Shizuoka, JAPAN;
Narishi Gonohe, Shizuoka, JAPAN;
Masamichi Harada, Shizuoka, JAPAN;
Nobuyuki Kato, Shizuoka, JAPAN;

Assignment For Published Patent Application

ULVAC, Inc., Chigasaki-shi, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number **23850**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP03/15776 12/10/2003

Foreign Applications

JAPAN 2002-379101 12/27/2002

If Required, Foreign Filing License Granted: 06/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/140,362

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for forming tungsten nitride film

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

OIPE IAP72 JAN 05 2006 PATENT & TRADEMARK OFFICE

TJW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application No.: 11/140,365

Filing Date: 05/28/2005

Group Art Unit: 1772

Approved 8-14-06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

MOTION TO WITHDRAW AS ATTORNEY

Pursuant 37CFR 1.36(b) the undersigned having been named as an attorney of record in the above captioned matter at some time, hereby withdraws his appearance pursuant to 10.40(b).

Upon information and belief, the owner of the above listed patent or application is currently and has been represented by a registered practitioner other than the undersigned.

Respectfully submitted,

Thomas P. Liniak

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Sanjeevan Sivalingham	: DECISION ON REQUEST FOR
Patent Number	: 7586882	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1068** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAILED

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OFFICE OF PETITIONS

In re Patent No. 7,462,488	:	
Madsen et al.	:	DECISION DISMISSING
Application No. 11/140,400	:	REQUEST FOR
Issue Date: December 9, 2008	:	RECONSIDERATION OF
Filed: May 27, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 032026-0884	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed on February 2, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred and fifty-five (455) to six hundred and fifty-one (651) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (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 –

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(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 –

(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[2]:

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 an international application and ending on the date a patent was issued, but not including the sum of the following periods[3]:

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[2] (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.

[3] (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,

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.

OPINION

On December 9, 2008, the application matured into U.S. Patent No. 7,462,488, with a revised patent term adjustment of 455 days.

On February 2, 2009, 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 651 days, which is the sum of the 196 days of patent term adjustment due to exceeding the three year pendency plus 545 days due to USPTO delay in prosecution, minus the 90 days of applicant delay.

It is noted that the instant patent issued 3 years and 196 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

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(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.

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 196 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 545 days attributable to grounds specified in § 1.702(a)(1). Thus, at issuance, no additional period of adjustment was entered.

It follows that the proper period of adjustment for Office delay was properly calculated to be 545 days.

In view thereof, the patent issued with a revised patent term adjustment of 455 (545 - 90) days.

Patentees state that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 196 days.[4] This 196 day period is calculated based on the application having been filed under 35 U.S.C. 111(a), on May 27, 2005, and the patent having not issued until December 9, 2008, three years and 196 days later. Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (196 days) and the period of Examination Delay (545 days) less the period of Applicant Delay (90 days) to the extent that these periods of delay are not overlapping. In short, patentees do not agree with the Office's determination that the period of delay of 196 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 545 days attributable to grounds specified in § 1.702(a)(1).

The period of reduction of 90 days for applicant delay is not in dispute.

As such, patentees assert entitlement to a patent term adjustment of 651 days (545 + 196 reduced by 90).

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[4] See petition, page 4.

The Office agrees that the patent issued 3 years and 196 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 545 days for Office delay and 90 days for Applicant delay are correct. At issue is whether the period of delay of 196 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 545 days attributable to grounds specified in § 1.702(a)(1).

The Office maintains that the 196 days for delay in issuance of the patent overlaps with the 545 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 27, 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[5]

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 27, 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" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, May 27, 2005 to December 9, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). During that time, the issuance of the patent was delayed by 545 days, not 545 + 196 days. The Office took 14 months and 545 days to issue a first Office

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[5] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 545 days of Office delay and the 90 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 196 days after its filing date. The Office did not delay 545 days and then an additional 196 days. Accordingly, 545 days of patent term adjustment (not 545 and 196 days) was properly entered since the period of delay of 196 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 545 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 545 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 196 days over three years.

Accordingly, at issuance, the Office properly entered 0 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 455 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TRASK BRITT, P.C./ MICRON TECHNOLOGY
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Charles M. Watkins	: DECISION ON REQUEST FOR
Patent Number	: 7598167	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **797** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days,** whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Yuichiro Tsutsui	: DECISION ON REQUEST FOR
Patent Number	: 7660858	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,409	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1051** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Stephen Clark Purcell	:	
Application No. 11/140,410	:	DECISION ON PETITION
Filed: May 27, 2005	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
022193-060510US	:	
Title: METHOD AND SYSTEM TO	:	
IMPLEMENT AN IMPROVED	:	
FLOATING POINT ADDER WITH	:	
INTEGRATED ADDING AND	:	
ROUNDING	:	

This is a decision on the petition filed November 5, 2007, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed August 17, 2006, which set a shortened statutory period for reply of three months. An after-final amendment was received on November 16, 2006, along with a terminal disclaimer to obviate a double patenting rejection over

a prior patent. An advisory action was mailed on December 11, 2006. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were requested, and no further responses were received. Accordingly, the above-identified application became abandoned on November 18, 2006. A notice of abandonment was mailed on May 30, 2008, subsequent to the filing of this petition.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, an amendment, a statement that is being construed as the proper statement of unintentional delay, and a terminal disclaimer.

The first three requirements of Rule 1.137(b) have been met.

The fourth requirement is not applicable, as a terminal disclaimer is not required. However, it is noted that Petitioner

has further submitted a "TERMINAL DISCLAIMER TO ACCOMPANY PETITION" along with the associated fee, which is not required.[1] Should Petitioner wish for this terminal disclaimer to be withdrawn, a petition requesting the same will be required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on November 5, 2007 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 See 37 C.F.R. § 1.137(d)(1).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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OFFICE OF PETITIONS

In re Application of :
Marx et al. :
Application No. 11/140,411 : ON APPLICATION FOR
Filed: May 27, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. PC26140A :
Title: SUBSTITUTED :
PYRROLO[2,3-D]PYRIMIDINE :
DERIVATIVES USEFUL IN CANCER :
TREATMENT :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed March 5, 2009, which is being treated as a petition pursuant to 37 C.F.R. § 1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is six hundred and sixty-one (661) days, not two hundred and seventy-six (276) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[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 regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of
Collinge, et al.
Application No. 11/140,416
Filed: May 27, 2005
Attorney Docket No. 990486.DVD
For: BIOLOGICAL MATERIALS AND METHODS USEFUL IN THE DIAGNOSIS AND TREATMENT OF DISEASES

: DECISION ON
: PETITION

This is a decision on the petition filed August 22, 2005 requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed August 15, 2005, 2005. The petition will be treated under 37 CFR 1.53(e).

The application was filed on May 27, 2005. On August 15, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figure 6 (on page 8), as described in the specification, appeared to have been omitted.

Petitioners request that Figure 6 (on page 8) be accorded a filing date of May 27, 2005 on the basis that 10 pages of drawing figures, including Figure 6 (on page 8), were received in the Patent and Trademark Office (PTO) on May 27, 2005. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing May 27, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing included 10 pages of drawings.

The return postcard constitutes *prima facie* evidence that 10 pages of drawing figures were filed on May 27, 2005. MPEP 503. A review of the application file reveals that there are 9 pages of drawing figures present. Page 8/10 pages of drawings is missing.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **May 27, 2005**, using the copy of Figure 6 on page 8/10 of the pages of drawings submitted with the instant petition. Office records will be corrected to show that 10 pages of drawings were present on initial filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Vogels, et al.

Application No. 11/140,418

Filed: May 27, 2005

Attorney Docket No. 2578-7188US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed March 12, 2008. The petition will be treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 21, 2007, after it was believed that a timely response was not received to the non-final Office action mailed June 20, 2007. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was filed on October 22, 2007, but appeared not top be accompanied by the request for an extension of time within the first month that was necessary to make the response timely. A Notice of Abandonment was mailed on March 26, 2008.

Petitioner states, and a review of the application file history reveals that a standing authorization to charged deposit account 20-1469 for additional fees under 37 CFR 1.16 or 1.17 accompanied the original application papers. In light of this, the response of October 22, 2007, should have been considered timely filed pending the payment of the fee for the extension of time within the first month. Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Deposit account 20-1469 will be charged $120.00 for the request for an extension of time within the first month. The deposit account will also be refunded $1540.00 that it was charged for the fee for the petition under 37 CFR 1.137(b).

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 1600, GAU 1633 for further processing including review of the amendment filed October 22, 2007.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Tongbi Jiang	: DECISION ON REQUEST FOR
Patent Number	: 7573136	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,422	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **162** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD, CA 92008

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of :
Perera et al. :
Application No. 11/140,437 :
Filed: May 27, 2005 :
Attorney Docket No. ISIS0129-100 :
(BIOL0041US)

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 5, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Isis Pharmaceuticals, Inc, 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 the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MCCARTER & ENGLISH, LLP BOSTON
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OFFICE OF PETITIONS

In re Application of :
Timothy E. MOUTAFIS, et al :
Application No. 11/140,466 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. HYZ-032US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 20, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 21, 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 that places the application in condition for allowance; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

The Amendment filed with the petition dated February 4, 2010, has been approved by the Examiner assigned to the above-identified application.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3739 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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OCT 0 9 2008

B.J. Sadoff
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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203-1808

In re Application of :
Buyse et al :Decision on Petition
Serial No.: 11/140,487 :
Filed : 31 May 2005 :
Attorney Docket No.: BJS-2551-176 :

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 11 June 2008 requesting for withdrawal of the restriction requirement mailed 11 April 2008. The delay in acting on this petition is regretted.

BACKGROUND

This application is filed under 35 U.S.C. 111(a) and as such is entitled to US restriction practice.

On 11 July 2007, the examiner restricted claims 1-55 and 57-59 into 8 groups, consisting on Group I, polyepitopic peptides, Group II, polynucleotides, vectors and host cells, and Groups III-VIII directed to methods of making and/or using Group I or II. The examiner also required applicants to elect a single sequence for examination.

On 9 August 2007, applicants elected Group IV, Claim 55, a method of inducing an immune response by administering a peptide with traverse, indicating the method of inducing an immune response by administering a polynucleotide should also be examined. Applicants also argued that because no individual sequences are claimed, the requirement to elect a single sequence should be withdrawn.

On 21 September 2007, in a non-final Office action, the examiner considered the traversal and rejoined Groups V and VI for concurrent examination. The examiner withdrew the requirement to elect of the single sequence, as the claim set contained only claims generic to the sequences. Claims 1-54 and 57-59 were withdrawn from consideration as being directed to non-elected inventions. Claim 55 was rejected under 35 U.S.C. 112, 2nd paragraph and under 35 U.S.C. 102(b) as being anticipated by Lauer.

On 21 December 2007, applicants filed an amendment to the claims and a response to the Office action.

On 25 March 2008, the Office mailed a final Office action. In a telephonic interview, applicants indicated that the action mailed on 25 March 2008 was incomplete. That Office action was then vacated by a Supplemental Final Office action mailed 11 April 2008.

In the Supplemental Final Office action mailed 11 April 2008, the examiner withdrew newly presented claims 64 and 74-94 from reconsideration as being directed to an independent or distinct invention from the invention originally claimed. Claims 55 and 65-73 were examined on the merits. The examiner then corrected a typographical error in the rejection set forth under 35 U.S.C. 102(b), by reformatting it as a rejection under 35 U.S.C. 102(e) and including newly added claims 65-73. The Office action was made final.

On 11 June 2008, applicant filed a response to the Office action, including an amendment to add new claims and this petition.

DISCUSSION

The file history and petition have been considered carefully.

The examiner has withdrawn claims 64 and 74-94 from consideration as being directed to a non-elected invention. MPEP 821 provides the following guidance for this situation.

> Claims held to be drawn to nonelected inventions, including claims drawn to nonelected species or inventions that may be eligible for rejoinder, are treated as indicated in MPEP § 821.01 through § 821.04.
>
> ...
>
> All claims that the examiner holds as not being directed to the elected subject matter are withdrawn from further consideration by the examiner in accordance with 37 CFR 1.142(b). See MPEP § 821.01 through § 821.04. The examiner should clearly set forth in the Office action the reasons why the claims withdrawn from consideration are not readable on the elected invention.

Withdrawing claims from consideration for not being drawn to the elected invention is a type of restriction requirement. MPEP 803 states in part:

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

...

> Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

In this application, the examiner did not set forth sufficient reasons to explain why claims 64 and 74-94 were independent or distinct from the elected invention and why there would be a serious burden on the examiner if restriction were not required. Because insufficient reasoning has been given as to the independence, distinction and burden, it was improper to withdraw Claims 64 and 74-94 from examination.

Claim 55, which is generic to any nested epitope sequence, has been examined on the merits as the elected invention, is set forth below:

> 55. (Currently Amended) A method for inducing an immune response in a subject against HCV which comprises administration of ~~the peptide,~~ a nested epitope ~~or polyepitopic peptide according to claim 1,~~ or the nucleic acid or polynucleotide encoding the same, or the vector including said nucleic acid or polynucleotide, or a composition including any of the same, or any combination thereof.

Claim 64 was added after the first action on the merits. Claim 64 is a proper dependent claim because it requires all the limitations of claim 55 and further requires recites a list of nested epitope sequences as follows:

> 64. (new) The method according to claim 55, wherein the nested epitope consists of an amino acid sequence as identified by any one of SEQ ID NOs: 2254 to 2278, or a CTL and/or HTL epitope thereof.

MPEP 808.01 states in part:

> In applications where only generic claims are presented, restriction cannot be required unless the generic claims recite or encompass such a multiplicity of species that an unduly extensive and burdensome search would be necessary to search the entire scope of the claim. See MPEP § 803.02 and § 809.02(a). If applicant presents species claims to more than one patentably distinct species of the invention after an Office action on only generic claims, with no restriction requirement, the Office may require the applicant to elect a single species for examination.

See also MPEP 818.02(b) which states:

> Where only generic claims are first presented and prosecuted in an application in which no election of a single invention has been made, and applicant later presents species claims to more than one patentably distinct species of the invention, the examiner may require applicant to elect a single species. The practice of requiring election of species in cases with only generic claims of the unduly extensive and burdensome search type is set forth in MPEP § 808.01(a).

In this application, the examiner originally required an election of a single species in the Office action dated 11 July 2007. This requirement was then withdrew that requirement because only generic claims were present in the Office action dated 21 September 2007. In response to the first Office action on the merits, applicants added claims directed to sequences. The guidance in MPEP 811.03 applies in this situation:

> Where a requirement to restrict is made and thereafter withdrawn as improper, if restriction becomes proper at a later stage in the prosecution, restriction may again be required.

MPEP 809 sets forth the following guidance concerning the examination of generic linking claims and rejoinder of non-elected inventions:

> The most common types of linking claims which, if allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible, are
>
> (A) genus claims linking species claims; and
>
> (B) subcombination claims linking plural combinations.
>
> Where an application includes claims to distinct inventions as well as linking claims, restriction can nevertheless be required.
>
> The linking claims must be examined with, and thus are considered part of, the invention elected. When all claims directed to the elected invention are allowable, should any linking claim be allowable, the restriction requirement between the linked inventions must be withdrawn. Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or requires all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability. Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions. Where such withdrawn claims have been canceled by applicant pursuant to the restriction requirement, upon the allowance of the linking claim(s), the examiner must notify applicant that any canceled, nonelected claim(s) which depends from or requires all the limitations of the allowable linking claim may be reinstated by submitting the claim(s) in an amendment. Upon entry of the amendment, the amended claim(s) will be fully examined for patentability. See MPEP § 821.04 for additional information regarding rejoinder.

Applicants' petition includes Table showing various amino acid sequences and asserts that the sequences of the dependent claims share a common core structure such that restriction should not be required. This argument is not persuasive because

(1) the SEQ ID Nos in the Table such as 256, 62, 87, etc, are not commensurate in scope with or correlated with the sequence numbers SEQ ID Nos 2254-2278, in dependent claim 64 and

(2) the Table shows sequences such as 256 and 59 set forth below, which do not share any common sequence.

SEQ ID No 256:	PVNSWLGNI
SEQ ID NO 59	RMILMTHFF

Lastly, it is noted that the finality of the Office action mailed 11 June 2008 is improper in view of the new grounds of rejection of claims under 35 U.S.C. 102(e).

DECISION

For these reasons, the petition filed on 11 June 2008 is **GRANTED.**

Claims 64 and 74-94 are no longer withdrawn from consideration as being directed to a non-elected invention.

The finality of the Office action mailed 11 April 2008 is withdrawn.

The application will be forwarded to the examiner for the consideration of the papers filed on 11 June 2008 and for preparation of an Office action consistent with this decision. The Office action may include a requirement to elect one of the newly claimed species encompassed by an already examined generic claim.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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BRINKS HOFER GILSON & LIONE
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CHICAGO, IL 60610

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
KASZA, Kenneth E. et al. :
Application No. 11/140,500 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. **24887-0003001 / UC 1170** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 09, 2008 and resubmitted January 28, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Brinks Hofer Gilson & Lione has been revoked by the assignee of the patent application on February 09, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FISH & RICHARDSON PC**
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

mar

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(For Patent Owner)

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100 Abbott Park
Abbott Park, IL 60064-6008

(For Requester)

MAILED

FEB 08 2006

REEXAM UNIT

In re Reissue Application of
Paula J. Shadle et al
Application No. 11/140,525
Filed: May 27, 2005
For: U.S. Patent No. 5,429,746

In re Paula Shadle, et al.
Reexamination Proceeding
Control No. 90/006,966
Filed: March 12, 2004
For: U.S. Patent No. 5,429,746

DECISION, *SUA SPONTE*, TO MERGE REISSUE AND REEXAMINATION PROCEEDINGS

The above-captioned reissue and reexamination proceedings are before the Office of Patent Legal Administration for *sua sponte* consideration of whether the proceedings should be merged under 37 CFR 1.565(d) at this time.

REVIEW OF FACTS

1. U.S. patent No. 5,429,746 issued on July 4, 1995, with 41 claims.

2. A request for reexamination was filed by a third party requester on March 12, 2004, and was assigned control No. 90/006,966.

3. Reexamination was ordered for the '6966 proceeding on April 14, 2004.

4. An application for reissue, assigned application No. 11/140,525, was filed by the patent owner on May 27, 2005.

5. The filing of the '525 reissue application was announced in

the *Official Gazette* on August 23, 2005.

6. A patent owner's statement under 37 CFR 1.530 was not received in the '6966 proceeding, and the time for filing same has expired.

DISCUSSION REGARDING MERGER

Under 37 CFR 1.565(d):

> "If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings."

As evidenced by the above review of facts, reissue application No. 11/140,525 and reexamination control No. 90/006,966 are currently pending. The order to reexamine has been mailed in the reexamination proceeding and notice of the reissue application has been published in the *Official Gazette*; accordingly, a decision under 37 CFR 1.565(d) is timely.

The general policy of the Office is that a reissue application examination and a reexamination proceeding will not be conducted separately, and at the same time, as to a particular patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the two proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of both proceedings. In making a decision on whether or not to merge the two proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

In order to provide efficient and prompt handling of the reissue and reexamination proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the instant reissue and reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceeding will be merged in accordance with the decision set forth below.

It is to be noted, however, that the grant of merger of a reissue application and an *ex parte* reexamination proceeding under 37 CFR 1.565(d) **is discretionary**. *The present merger is not an assurance that, in a future similar situation, merger would be ordered.*

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-captioned reissue and reexamination proceedings are hereby merged. A joint examination will be conducted in accordance with the following guidelines and requirements.

II. Requirement for Same Amendments in Both Proceedings

1. A review of the reexamination file and the reissue application shows that both contain original patent claims 2-41 and claim 1 as amended. The claims are identical in both number and text in both proceedings.

2. The patent owner is required to maintain identical amendments in the reissue application and the reexamination proceeding for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings remain merged. See 37 CFR 1.565(d).

III. Conduct of the Merged Reissue Application Examination and Reexamination Proceedings

1. The examiner should promptly prepare an Office action for the merged proceeding.

2. Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. 305 relating to the conduct of *ex parte* reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue-application examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding. **However, periods for response should be set at TWO (2) months to comply with the statutory requirement for special dispatch in *ex parte* reexamination (35 U.S.C. 305).**

3. Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceeding.

Each action will contain identifying data *for both of the cases*, i.e, the reissue application and the reexamination proceeding, and each action will be entered into both files (which will be maintained as separate files).

4. Any response by the applicant/patent owner must consist of a single response, with two copies being filed for entry in the two files, with each of the two bearing a signature. Any such response must contain identifying data *for both of the cases*, i.e, the reissue application and the reexamination proceeding. *Any such responses must be served on the requester*, who will also be sent copies of Office actions.

5. Pursuant to MPEP 2285:

> "Amendments should be submitted in accordance with the reissue practice under ... 37 CFR 1.173; see MPEP § 1453."

Thus, the filing of any amendments to the drawings, specification, or claims must comply with the provisions of 37 CFR 1.173, and with the guidelines of MPEP 1453. It is to be noted that 37 CFR 1.121 does <u>not</u> apply to amendments in a reissue application. Accordingly, clean copies of the amended claims are not required, *and such clean copies are not to be submitted*. Instead, pursuant to 37 CFR 1.173(b)(2), amendments are to be presented via markings pursuant to 37 CFR 1.173(d), except that a claim should be canceled by a statement canceling the claim, without presentation of the text of the claim.

Pursuant to 37 CFR 1.173(g), all amendments must be made relative to the patent specification, including the claims, and drawings, which are in effect as of the date of filing the reissue application. *Amendments are not to be made relative to previous amendments*. Thus, for all amendments, all words not appearing in the patent are always underlined, and only words being deleted from the patent appear in brackets.

6. Where a paper is filed which requires payment of a fee (e.g., petition fee, excess claims fee, appeal fee, brief fee, oral hearing fee), only a single fee need be

paid. For example, only one fee need be paid for patent owner's appeal brief, even though the brief relates to the merged multiple proceedings, and even though copies must be filed (as pointed out above) for each file in the merged proceeding.

7. The examiner (a) will review the files to ensure that each file contains identical citations of prior patents and printed publications, and (b) will cite such documents as are necessary as part of the next Office action in order to place the files in that condition.

8. If the reissue application ultimately matures into a reissue patent, the reexamination proceeding shall be concluded by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 CFR 1.570. See MPEP 2285.

9. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be dissolved. The reissue application will be held abandoned. The reexamination prosecution will be terminated, and a reexamination certificate under 37 CFR 1.570 will be issued in accordance with the last action of the Office, unless further action in the reexamination proceeding is needed as a result of the difference in the rules relating to reexamination and reissue proceedings. If further action in the reexamination proceeding is needed, any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner, upon dissolution of the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper for consideration in reexamination pursuant to 37 CFR 1.552(c).

10. If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 CFR 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the

reexamination proceeding. Such examination would be conducted as set forth in the immediately preceding paragraph.

CONCLUSION

1. Reissue application No. 11/140,525 and reexamination control No. 90/006,966 **are merged** into a single proceeding.

2. Jurisdiction over the reissue and reexamination proceedings is forwarded to the examiner via the Director of Technology Center 1700 for the preparation of an Office action, to be issued in due course.

3. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

4. Telephone inquiries related to this decision should be directed to Samuel Broda, Legal Advisor, at (571) 272-7711.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

ssb
31 January 2006

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HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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DEC 22 2005

OFFICE OF PETITIONS

In Application of	:	
Johnson, et al.	:	
Application No. 11/140,526	:	DECISION REFUSING STATUS
Filed: May 27, 2005	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 60072-0939	:	

This is in response to the petition under 37 CFR 1.47, filed November 16, 2005, which is being treated as a petition 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).

Applicants filed the above-identified application on May 27, 2005. On June 14, 2005, the Office mailed a Notice to File Missing Parts of Reissue Application, requiring the statutory basic filing fee, an oath or declaration (or a petition under 37 CFR 1.47 with an oath or declaration singed by all available joint inventors), the surcharge for late filing of the oath or declaration, the written consent of the assignee pursuant to 37 CFR 1.172, and the assignee's statement under 37 CFR 3.73(b).

In response to the Notice, applicant filed the instant petition on November 16, 2005, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated November 14, 2005. Accompanying the petition were the filing fees, surcharge, and 37 CFR 1.63 declaration.

However, applicants have not submitted the written consent of the assignee pursuant to 37 CFR 1.172 and the assignee's statement under 37 CFR 3.73(b). Accordingly, applicants must submit these items before the 37 CFR 1.47(a) petition can be considered on the merits.

On renewed petition, petitioner must submit the written consent of the assignee pursuant to 37 CFR 1.172 and the assignee's statement under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows.

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

In Application of :
Johnson, et al. :
Application No. 11/140,526 : DECISION REFUSING STATUS
Filed: May 27, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 60072-0939 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 13, 2006.

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).

Applicants filed the above-identified application on May 27, 2005. On June 14, 2005, the Office mailed a Notice to File Missing Parts of Reissue Application, requiring the statutory basic filing fee, an oath or declaration (or a petition under 37 CFR 1.47 with an oath or declaration singed by all available joint inventors), the surcharge for late filing of the oath or declaration, the written consent of the assignee pursuant to 37 CFR 1.172, and the assignee's statement under 37 CFR 3.73(b).

In response to the Notice, applicant filed a petition on November 16, 2005, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated November 14, 2005. Accompanying the petition were the filing fees, surcharge, and a 37 CFR 1.63 declaration. However, because applicants did not submit the written consent of the assignee pursuant to 37 CFR 1.172 and the assignee's statement under 37 CFR 3.73(b), the petition was not considered on the merits and was dismissed in a decision mailed on December 22, 2005.

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 instant petition does not satisfy requirement (2).

On request for reconsideration, petitioner has supplied a declaration executed by inventor Johnson. However, the declaration is not dated, and therefore is not a proper declaration under 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows.

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In Application of	:	
Johnson, et al.	:	
Application No. 11/140,526	:	DECISION ACCORDING STATUS
Filed: May 27, 2005	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 60072-0939	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 5, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants filed the above-identified application on May 27, 2005. On June 14, 2005, the Office mailed a Notice to File Missing Parts of Reissue Application, requiring the statutory basic filing fee, an oath or declaration (or a petition under 37 CFR 1.47 with an oath or declaration singed by all available joint inventors), the surcharge for late filing of the oath or declaration, the written consent of the assignee pursuant to 37 CFR 1.172, and the assignee's statement under 37 CFR 3.73(b).

In response to the Notice, applicant filed a petition on November 16, 2005, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated November 14, 2005. Accompanying the petition were the filing fees, surcharge, and a 37 CFR 1.63 declaration. However, because applicants did not submit the written consent of the assignee pursuant to 37 CFR 1.172 and the assignee's statement under 37 CFR 3.73(b), the petition was not considered on the merits and was dismissed in a decision mailed on December 22, 2005.

Applicant filed a request for reconsideration on February 13, 2006. However, that petition was dismissed in a decision mailed on March 27, 2006. Applicant did not submit a proper declaration under 37 CFR 1.63.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On request for reconsideration, petitioner has supplied a proper declaration. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

The $200 petition fee has been charged to Deposit Account No. 50-1302, as authorized.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors Johnson and Osborne at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of
Piccionelli et al.
Application No. 11/140,533
Filed: May 26, 2005
Attorney Docket No. 39003.809US08
Title: Record-Keeping System For Transmission and Production of Content

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 1, 2005 (certificate of mailing dated November 28, 2005). Applicants obtained an extension of time for response within the third month. Therefore, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). No additional petition fee is necessary for filing a request for reconsideration.

In the present petition, Michael M. Gerardi asserted that joint inventors Piccionelli, Gerardi and Slaughter requested that non-signing inventor, Dwight J. Batts, sign the declaration; however, Mr. Batts refused.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicants lack item (1) as set forth above.

As to item (1), it appears that applicants did not mail the non-signing inventor a complete copy of the application papers, including the specification, claims, and drawings. Unless applicants presented the non-signing inventor with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he "has reviewed and understands the contents of the application," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the non-signing inventor refused to sign the declaration. See MPEP 409.03(d). Additionally, applicants did not provide any details of the events surrounding Mr. Batt's refusal to sign the declaration. Moreover, applicants did not submit statements from all persons with firsthand knowledge of the refusal, such as joint inventors Piccionelli and Slaughter.

To demonstrate that the inventor refused to join in the application, applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to the non-signing inventor, personally or through his designated representative, and that he did not respond to the request that he sign the declaration. The circumstances of any refusal to join in the filing of the application must be made by all persons with firsthand knowledge of the event.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of
Piccionelli et al.
Application No. 11/140,533
Filed: May 26, 2005
Attorney Docket No. 39003.809US08
Title: Record-Keeping System For Transmission and Production of Content

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed June 11, 2006. Petitioners obtain an extension of time for response within the fourth month. Therefore, this petition is filed timely.

Petitioners have shown that the non-signing inventor, Dwight J. Batts, has refused to join in the filing of the above-identified application. Specifically, Michael M. Gerardi states that Mr. Batts was provided with a copy of the application as filed. In addition, joint inventors Piccionelli and Slaughter declared that on February 24, 2006, Mr. Batts indicated that he refused to be involved with patent applications and would no longer cooperate with his joint inventor in any business dealings. Lastly, petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. Accordingly, the petition is **GRANTED**.

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.

This matter will be referred to Technology Center Art Unit 3625 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Dwight Batts
15 Louis Avenue
Newington, New South Wales 2127
Australia AIR MAIL

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Piccionelli et al. : DECISION ACCORDING STATUS
Application No. 11/140,533 : UNDER 37 CFR 1.47(a)
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US08 :
Title: Record-Keeping System For :
Transmission and Production of Content :

Dear Mr. Batts:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
SU, Xing :
Application No. 11/140,534 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. **21058/0206742/US0** : FROM RECORD
:

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 **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on June 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY PC**
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JJGJR.: 02-06

Paper No: __

MICHAEL M. GERARDI
28876 WOODCREST LAKE DRIVE
MENIFEE CA 92584

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Piccionelli et al. :
Application No. 11/140,538 : ON PETITION
Filed: 26 May, 2005 :
Attorney Docket No. 39003.809US13 :

This is a decision on the petition filed on 2 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 **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 26 May, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 1 July, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a

fully executed oath/declaration (signed and dated) was required;

- on 2 December, 2005, Petitioner Michael M. Gerardi (Reg. No. 33698) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventors Piccionelli, Gerardi and Slaughter (for themselves and on behalf of non-signing co-inventor Dwight J. Batts (Mr. Batts), and Petitioner makes no statement and documentary showing that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventor Mr. Batts, nor of a diligent effort to ascertain a current/valid last known address for Mr. Batts to which to direct the aforementioned documents as required by law.

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

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[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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Alexandria, VA 22313-1450
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JUN 12 2008

MICHAEL M. GERARDI
28876 WOODCREST LAKE DRIVE
MENIFEE CA 92584

In re Application of	:	
Piccionelli, et al.	:	
Application No.: 11/140,538	:	DECISION
Filing Date: 26 May, 2005	:	
Attorney Docket No. 39003.809US13	:	

This is a decision on the petition filed on 23 August, 2006, under 37 C.F.R. §1.47.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.47 is **GRANTED**.

Petitioner has shown that the non-signing inventor has failed and, thus, constructively refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The record reflects that: Petitioner demonstrates that the entire application—description, claims, abstract and drawings—was sent to and received at the last known residence address the non-signing inventor, and that the non-signing inventor has since failed and, thus, constructively refused to join in the filing of the above-identified application.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus,

now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

CONCLUSION

The instant petition under 37 C.F.R. §1.47 is **granted**.

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.

The instant application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) for further processing 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 action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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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). See specifically, the regulations at 37 C.F.R. §10.18.

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DWIGHT J. BATTS
15 LOUIS AVENUE
NEWINGTON
NEW SOUTH WALES 2127
AUSTRALIA

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JUN 12 2008

In re Application of	:	
Piccionelli, et al.	:	
Application No.: 11/140,538	:	COMMUNICATION
Filing Date: 26 May, 2005	:	
Attorney Docket No. 39003.809US13	:	

Dear Dwight J. Batts:

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 CFR 1.47, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

While telephone inquiries regarding this communication 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[1]) 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). Moreover, the Office cannot neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
MICHAEL M. GERARDI
28876 WOODCREST LAKE DRIVE
MENIFEE CA 92584

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[1] 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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DEC 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,576,175 :
Lam et al. :
Issue Date: August 18, 2009 :
Application No. 11/140,548 : DECISION ON REQUEST FOR
Filed: May 26, 2005 : RECONSIDERATION OF
Attorney Dkt. No. 02307W- : PATENT TERM ADJUSTMENT
144110US :
Title: ALPHA-4 BETA-1 INTEGRIN :
LIGANDS FOR IMAGING AND THERAPY :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. §1.705(d)," filed October 12, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seventy-eight (78) days to one hundred forty-three (143) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 18, 2009, the above-identified application matured into US Patent No. 7,576,175 with a patent term adjustment of 78 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that 179 of 191 days due to the Three Year Delay by the Office, pursuant to 37

CFR § 1.703(b), does not overlap with the 77 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Thus, patentees request that the determination of patent term adjustment be increased to a total of one hundred forty-three (143) days (the sum of the period of three-year delay (191 days) and the period of examination delay (77 days) minus overlap (12 days), minus applicants' delay (113 days). Patentees do not dispute the 113-day reduction for applicants' delay.

The Office finds that as of December 2, 2008, the day before the date of the filing of the request for continued examination (RCE) on December 3, 2008, the application was pending three years and 190 days after its filing date (May 27, 2008 to December 2, 2008). Entries of adjustments totalling 77 days were entered for Office delay. At issue is whether patentees should accrue an additional 190 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 77 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as

permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the filing date May 26, 2005 until December 2, 2008, the day before the filing of the RCE on December 3, 2008. Prior to the submission of the RCE, 77 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The Office did not delay 77 days and then delay another 190 days. The greater period, 190 days, is the actual number of days

issuance of the patent was delayed by the Office. Entry of both 190 days pursuant to 37 CFR §1.702(b) and 77 days pursuant to 37 CFR §1.702(a) is neither permitted nor warranted.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Kit S. Lam	: DECISION ON REQUEST FOR
Patent Number	: 7576175	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,548	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **142** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Orum & Roth LLC
53 West Jackson Blvd.
Chicago IL 60604

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Perez :
Application No. 11/140,562 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. 14137 : FROM RECORD
:

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 review of the file record indicates that Catherine L. Glemrich: (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, Catherine L. Glemrich 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).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of
Gregory A. Piccionelli, Michael M. Gerardi,
David W. Slaughter, and Dwight J. Batts
Application No. 11/140,563
Filed: May 26, 2005
Attorney Docket No. 39003.809US 09
Title: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONT

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed December 1, 2005.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 27, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

basic filing fee, the search fee, and the examination fee. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner has submitted the petition fee, the surcharge, a three-month extension of time to make timely this response[2], a statement of facts, a declaration which has been executed by each of the joint inventors save Mr. Batts, the last known address of the same, the basic filing fee, the search fee, 8 pages of drawings, and the examination fee.

The petition has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement above, it does not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] As no mention has been made of any presentation of the application to Mr. Batts, the fourth requirement has not been met. On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor.

It follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[4].

For these reasons, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[5], hand-delivery[6], or facsimile[7].

---

2 The submission contains a certificate of mailing dated November 28, 2005.
3 See MPEP 409.03(d).
4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts Application No. 11/140,563 Filed: May 26, 2005 Attorney Docket No. 39003.809US 09 Title: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §47(A)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed June 11, 2006.

---

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 27, 2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, the search fee, and the examination fee. This Notice set a two-month period for reply.

The original petition was filed on December 1, 2005, along with the petition fee, the surcharge, a three-month extension of time to make timely this response, a statement of facts, a declaration which had been executed by each of the joint inventors save Mr. Batts, the last known address of the same, the basic filing fee, the search fee, 8 pages of drawings, and the examination fee. The petition was dismissed via the mailing of a decision on December 15, 2005, for failing to meet the fourth requirement of 37 C.F.R. §1.47(a), in that it did not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor.

With this renewed petition, Petitioner has included a four-month extension of time to make timely this response. Petitioner has further set forth that a "copy of the patent disclosure" was sent via an e-mail attachment to the non-signing inventor (Gerardi declaration, paragraph 6).

First, it is not clear if a "copy of the patent disclosure" comprises a complete copy of the application. Secondly, the transmission of documents via e-mail, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be effected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an Emailed document was in a form that can be read and comprehended.

As such, it cannot be determined that a complete copy of the application was provided to the non-signing inventor.

Therefore, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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Paper No. None

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Menifee CA 92584

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Gregory A. Piccionelli, Michael	:	
M. Gerardi, David W. Slaughter,	:	
and Dwight J. Batts	:	
Application No. 11/140,563	:	DECISION ON SECOND RENEWED
Filed: May 26, 2005	:	PETITION UNDER
Attorney Docket No. 39003.809US	:	37 C.F.R. §47(A)
09	:	
Title: RECORD-KEEPING SYSTEM	:	
FOR TRANSMISSION AND PRODUCTION	:	
OF CONTENT	:	

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed September 5, 2006.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was

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[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

deposited without an executed oath or declaration. On June 27, 2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, the search fee, and the examination fee. This Notice set a two-month period for reply.

The original petition was filed on December 1, 2005, and was dismissed via the mailing of a decision on December 15, 2005, for failing to meet the fourth requirement of 37 C.F.R. §1.47(a), in that it did not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor.

The renewed petition was filed on June 11, 2006, and was dismissed via the mailing of a decision on July 5, 2006, for failure to establish that a complete copy of the application was sent to the non-signing inventor in an acceptable manner.

With this second renewed petition, this deficiency has been rectified.

Therefore, the second renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dwight J. Batts
15 Louis Avenenue
Newington, New South Wales 2127
AUSTRALIA

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionelli, Michael M. :
Gerardi, David W. Slaughter, and :
Dwight J. Batts :
Application No. 11/140,563 : LETTER
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US 09 :
Title: RECORD-KEEPING SYSTEM FOR :
TRANSMISSION AND PRODUCTION OF CONTENT :

Dear Mr. Batts:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named 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, the attorney of record 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) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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Paper No. None

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of
Gregory A. Piccionelli, Michael M. Gerardi,
David W. Slaughter, and Dwight J. Batts
Application No. 11/140,564
Filed: May 26, 2005
Attorney Docket No. 39003.809US12
Title: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed December 1, 2005.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 27, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the

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(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

basic filing fee, the search fee, and the examination fee. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner has submitted 8 pages of drawings, the petition fee, the surcharge, a three-month extension of time to make timely this response[2], a statement of facts, a declaration which has been executed by each of the joint inventors save Mr. Batts, the last known address of the same, the basic filing fee, the search fee, and the examination fee.

The petition has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement above, it does not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] As no mention has been made of any presentation of the application to Mr. Batts, the fourth requirement has not been met. On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor.

It follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[4].

For these reasons, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[5], hand-delivery[6], or facsimile[7].

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2 The submission contains a certificate of mailing dated November 28, 2005.
3 See MPEP 409.03(d).
4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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COMMISSIONER FOR PATENTS
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Paper No. None

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28876 Woodcrest Lake Drive
Menifee CA 92584

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Gregory A. Piccionelli, Michael	:	
M. Gerardi, David W. Slaughter,	:	
and Dwight J. Batts	:	
Application No. 11/140,564	:	DECISION ON RENEWED
Filed: May 26, 2005	:	PETITION UNDER
Attorney Docket No. 39003.809US	:	37 C.F.R. §47(A)
12	:	
Title: RECORD-KEEPING SYSTEM	:	
FOR TRANSMISSION AND PRODUCTION	:	
OF CONTENT	:	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed June 11, 2006.

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[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 27, 2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, the search fee, and the examination fee. This Notice set a two-month period for reply.

The original petition was filed on December 1, 2005, along with 8 pages of drawings, the petition fee, the surcharge, a three-month extension of time to make timely this response, a statement of facts, a declaration which had been executed by each of the joint inventors save Mr. Batts, the last known address of the same, the basic filing fee, the search fee, and the examination fee. The petition was dismissed via the mailing of a decision on December 15, 2005, for failing to meet the fourth requirement of 37 C.F.R. §1.47(a), in that it did not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor.

With this renewed petition, Petitioner has included a four-month extension of time to make timely this response. Petitioner has further set forth that a "copy of the patent disclosure" was sent via an e-mail attachment to the non-signing inventor (Gerardi declaration, paragraph 6).

First, it is not clear if a "copy of the patent disclosure" comprises a complete copy of the application. Secondly, the transmission of documents via e-mail, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be effected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an Emailed document was in a form that can be read and comprehended.

As such, it cannot be determined that a complete copy of the application was provided to the non-signing inventor.

Therefore, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. None

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Gregory A. Piccionelli, Michael	:	
M. Gerardi, David W. Slaughter,	:	
and Dwight J. Batts	:	
Application No. 11/140,564	:	DECISION ON SECOND RENEWED
Filed: May 26, 2005	:	PETITION UNDER
Attorney Docket No. 39003.809US	:	37 C.F.R. §47(A)
12	:	
Title: RECORD-KEEPING SYSTEM	:	
FOR TRANSMISSION AND PRODUCTION	:	
OF CONTENT	:	

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed September 5, 2006.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 27,

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, the search fee, and the examination fee. This Notice set a two-month period for reply.

The original petition was filed on December 1, 2005, and was dismissed via the mailing of a decision on December 15, 2005, for failing to meet the fourth requirement of 37 C.F.R. §1.47(a), in that it did not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor.

The renewed petition was filed on June 11, 2006, and was dismissed via the mailing of a decision on July 5, 2006, for failure to establish that a complete copy of the application was sent to the non-signing inventor in an acceptable manner.

With this second renewed petition, this deficiency has been rectified.

Therefore, the second renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dwight J. Batts
15 Louis Avenenue
Newington, New South Wales 2127
AUSTRALIA

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionelli, Michael M. :
Gerardi, David W. Slaughter, and :
Dwight J. Batts :
Application No. 11/140,564 : LETTER
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US 12 :
Title: RECORD-KEEPING SYSTEM FOR :
TRANSMISSION AND PRODUCTION OF CONTENT :

Dear Mr. Batts:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named 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, the attorney of record 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) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionelli, Michael M. Gerardi, :
David W. Slaughter, and Dwight J. Batts :
Application No. 11/140,565 :
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US11 :
Title: RECORD-KEEPING SYSTEM FOR :
TRANSMISSION AND PRODUCTION OF :
CONTENT :

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed December 1, 2005.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 28, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

basic filing fee, the search fee, the examination fee, and additional claim fees. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner has submitted 8 pages of drawings, the petition fee, the surcharge, a three-month extension of time to make timely this response[2], a statement of facts, a declaration which has been executed by each of the joint inventors save Mr. Batts, the last known address of the same, the basic filing fee, the search fee, the examination fee, and additional claim fees.

The petition has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement above, it does not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] As no mention has been made of any presentation of the application to Mr. Batts, the fourth requirement has not been met. On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor.

It follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[4].

For these reasons, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[5], hand-delivery[6], or facsimile[7].

---

2 The submission contains a certificate of mailing dated November 28, 2005.
3 See MPEP 409.03(d).
4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

COPY MAILED

JUL 05 2006

OFFICE OF PETITIONS

In re Application of Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §47(A)
Application No. 11/140,565	
Filed: May 26, 2005	
Attorney Docket No. 39003.809US11	
Title: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed June 11, 2006.

---

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 28, 2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, the search fee, the examination fee, and additional claim fees. This Notice set a two-month period for reply.

The original petition was filed on December 1, 2005, along with 8 pages of drawings, the petition fee, the surcharge, a three-month extension of time to make timely this response, a statement of facts, a declaration which had been executed by each of the joint inventors save Mr. Batts, the last known address of the same, the basic filing fee, the search fee, the examination fee, and additional claim fees. The petition was dismissed via the mailing of a decision on December 15, 2005, for failing to meet the fourth requirement of 37 C.F.R. §1.47(a), in that it did not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor.

With this renewed petition, Petitioner has included a four-month extension of time to make timely this response. Petitioner has further set forth that a "copy of the patent disclosure" was sent via an e-mail attachment to the non-signing inventor (Gerardi declaration, paragraph 6).

First, it is not clear if a "copy of the patent disclosure" comprises a complete copy of the application. Secondly, the transmission of documents via e-mail, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be effected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to

presume that an Emailed document was in a form that can be read and comprehended.

As such, it cannot be determined that a complete copy of the application was provided to the non-signing inventor.

Therefore, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Gregory A. Piccionelli, Michael	:	
M. Gerardi, David W. Slaughter,	:	
and Dwight J. Batts	:	
Application No. 11/140,565	:	
Filed: May 26, 2005	:	DECISION ON RENEWED
Attorney Docket No.	:	PETITION UNDER
39003.809US11	:	37 C.F.R. §1.47(A)
Title: RECORD-KEEPING SYSTEM	:	
FOR TRANSMISSION AND PRODUCTION	:	
OF CONTENT	:	

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed September 5, 2006.

On May 26, 2005, the application was filed, identifying Gregory A. Piccionelli, Michael M. Gerardi, David W. Slaughter, and Dwight J. Batts as joint inventors. The application was deposited without an executed oath or declaration. On June 28,

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, the search fee, and the examination fee. This Notice set a two-month period for reply.

The original petition was filed on December 1, 2005, and was dismissed via the mailing of a decision on December 15, 2005, for failing to meet the fourth requirement of 37 C.F.R. §1.47(a), in that it did not appear that a complete copy of the application was sent to the last-known residential address of the non-signing inventor.

The renewed petition was filed on June 11, 2006, and was dismissed via the mailing of a decision on July 5, 2006, for failure to establish that a complete copy of the application was sent to the non-signing inventor in an acceptable manner.

With this second renewed petition, this deficiency has been rectified.

Therefore, the second renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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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Dwight J. Batts
15 Louis Avenenue
Newington, New South Wales 2127
AUSTRALIA

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionelli, Michael M. :
Gerardi, David W. Slaughter, and :
Dwight J. Batts :
Application No. 11/140,565 : LETTER
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US11 :
Title: RECORD-KEEPING SYSTEM FOR :
TRANSMISSION AND PRODUCTION OF CONTENT :

Dear Mr. Batts:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named 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, the attorney of record 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) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

UNITED STATES 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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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
KIAI, Amir et al. :
Application No. 11/140,566 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. **AMRA.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 December 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 Eric M. Nelson on behalf of all attorneys of record who are associated with customer No. 20995. 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 Amir Kiai at the address indicated below.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle L Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **AMIR KIAI**
2102 BUSINESS CENTER DRIVE, #206i
IRVINE, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

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MAY 01 2006
OFFICE OF PETITIONS

In re Application of :
Piccionelli, Gerardi, Slaughter, and Batts :
Application No. 11/140,569 : DECISION REFUSING STATUS
Filed: may 26, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 39003.809US10 :
For: **RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT**

This is a decision on the petition under 37 CFR 1.47(a), filed December 2, 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-identified application was filed on May 26, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on June 28, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration and payment of the filing fee, examination and search fees. The instant petition was filed on December 2, 2005 (certificate of mailing dated November 30, 2005) with a request for an extension of time within the fourth month.

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, to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (1) as set forth above.

As to item (1), although it is alleged that inventor Batts has refused to join the prosecution of the application, the instant petition does not make a showing that would support the granting of status under 37 CFR 1.47(a) for the subject application. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [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 paper should be sent to the last known address of 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. 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 CFR 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.

Any renewed petition must establish that the alleged non-signing inventor was presented with a complete copy of the application papers and detail the circumstances of the refusal in accordance with Section 409.03(d) of MPEP cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

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OFFICE OF PETITIONS

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

In re Application of
Piccionelli, Gerardi, Slaughter, and Batts
Application No.: 11/140,569
Filed: May 26, 2005
Attorney Docket No: 39003.809US10
Invention: **RECORD-KEPPING SYSTEM FOR TRANSMISSION AND PRODUCTION CONTENT**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 23, 2006.

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 26, 2005, without a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 28, 2005, allowing a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). The notice required a proper oath or declaration to be filed and payment of a surcharge, filing fee, examination and search fees. A petition under 37 CFR 1.47(a) was filed on December 2, 2005, and dismissed by a decision mailed May 1, 2006.

Petitioner has shown that inventor Batts has refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 03 2007

OFFICE OF PETITIONS

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of :
Thomas J. Mcleer :
Application No. 11/140,570 : DECISION ON PETITION
Filed: May 26, 2005 : TO WITHDRAW
Attorney Docket No. 29914-726.201 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 8, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Wilson, Sonsini, Goodrich & Rosati has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHAY LAW GROUP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Wong Cabello Lutsch Rutherford & Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston TX 77070

MAILED

JUL 29 2009

OFFICE OF PETITIONS

In re Application of :
SHANKAR et al. :
Application No. 11/140,577 : ON APPLICATION FOR
Filed: May 27, 2005 : PATENT TERM ADJUSTMENT
Atty. Docket No. 112-0165US :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed July 6, 2009, 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 five hundred eighteen (518) days, not four hundred thirty-nine (439) 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).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months

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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.

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
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Wong Cabello Lutsch Rutherford & Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston, TX 77070

Mail Date: 04/21/2010

Applicant	: Vinod R. Shankar	: DECISION ON REQUEST FOR
Patent Number	: 7590648	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,577	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **679** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Wong Cabello Lutsch Rutherford & Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston, TX 77070

Mail Date: 05/18/2010

Applicant : Vinod R. Shankar
Patent Number : 7590648
Issue Date : 09/15/2009
Application No: 11/140,577
Filed : 05/27/2005

: 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 **732** 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
11/140,585	05/26/2005	3641	1130	011775-015210US	6	20	2

CONFIRMATION NO. 2175

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

UPDATED FILING RECEIPT

OC000000016946005

Date Mailed: 09/06/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Charles Coleman, Fort Collins, CO;

Assignment For Published Patent Application

IXYS Corporation, Santa Clara, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/575,435 05/28/2004

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 US11/140,585

Projected Publication Date: 12/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Heatsink for power devices

Preliminary Class

376

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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www.uspto.gov

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

COPY MAILED
JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of:	:	
Piccionelli et al.	:	
Application No. 11/140,598	:	DECISION DISMISSING
Filed: September 26, 2005	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
RECORD-KEEPING SYSTEM FOR	:	
TRANSMISSION AND PRODUCTION	:	
OF CONTENT	:	

This is in response to the Petition Under 37 CFR 1.47(a), to allow the other inventor to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; 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).

Background

The above-identified application was filed on September 26, 2005, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on July 1, 2005, requiring *inter alia*, a properly signed oath or declaration.

The instant petition

In response to the Notice, Applicant files the instant petition wherein Applicant asserts that the three signing inventors have each made requests to the nonsigning inventor that he execute the declaration, but that the nonsigning inventor has refused to execute the declaration.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the MPEP provides that

> 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.

Applicant must provide a statement of facts from a person with first-hand knowledge that includes the circumstances of the

presentation of the application papers (specification, claims and drawing(s)), and the time and place of refusal.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of:	:	
Piccionelli et al.	:	
Application No. 11/140,598	:	DECISION GRANTING
Filing or 371(c) Date: 05/26/2005	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
RECORD-KEEPING SYSTEM FOR	:	
TRANSMISSION AND PRODUCTION	:	
OF CONTENT	:	

This is in response to a Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed September 11, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Dwight J. Batts, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MR. DWIGHT J. BATTS
15 LOUIS AVENUE
NEWINGTON
SOUTH WALES 2127
AUSTRALIA

COPY MAILED

DEC 15 2006

OFFICE OF PETITIONS

In re Application of:
Piccionelli et al.
Application No. 11/140,598
Filing or 371(c) Date: 05/26/2005
Title of Invention:
RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT

LETTER

Dear Mr. Batts:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee, CA 92584

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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APR 26 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Piccionelli, et al. :
Application No. 11/140,599 :
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US07 :
For: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT

This is a decision on the petition under 37 CFR 1.47(a), filed December 2, 2005 (certificate of mailing date November 30, 2005).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 26, 2005 without an executed declaration. On July 1, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring applicants to submit replacement drawings, various fees, an executed oath/declaration and a surcharge for their late filing within an extendable two month period from the mail date of the Notice.

In response, on December 2, 2005 (certificate of mailing date November 30, 2005), petitioners timely filed a request for a three month extension of time and required fee, replacement drawings, various fees, a declaration executed by 3 of 4 joint inventors, the surcharge, the instant petition and petition fee. The petition, signed by registered practitioner, Michael M. Gerardi, explains that Inventors Piccionelli, Gerardi, and Slaughter have requested non-signing inventor Dwight J. Batts execute the declaration, but Mr. Batts has to date refused to do so.

A grantable petition under 37 CFR 1.47(a) requires:

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,

(2) a proper oath or Declaration executed by the available joint inventor(s),

(3) the petition fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that Mr. Batts has refused to sign the declaration.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The petition does not establish that a complete copy of the application was mailed to Mr. Batts.

As petitioners are aware, circumstances change and individuals, when faced with opportunities, sometimes waiver from their stated intentions. Mr. Batts must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioners can show that Mr. Batts was mailed or received the complete application and that he either refused to sign the declaration or did not respond to the request that he sign the declaration within a reasonable period of time, petitioner will have satisfied this requirement.

Any future statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. MPEPE 409.03(d) If there is a written refusal, a copy of the refusal should be made part of the reconsideration petition.

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
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

Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

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DEC 1 8 2006

OFFICE OF PETITIONS

In re Application of :
Piccionelli, et al. :
Application No. 11/140,599 : ON PETITION
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US07 :
For: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed August 23, 2006.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Dwight J. Batts, has refused to join in the filing of the above-identified application. Attorney and joint inventor, Michael M. Gerardi states that Mr. Batts was mailed a copy of the application as filed. Inventors Piccionelli and Slaughter state that on February 24, 2006 Mr. Batts refused to be involved with patent applications and would no longer cooperate with his joint inventor in any business dealings. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the application will be forwarded to Technology Center Art Unit 3625 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

DWIGHT J. BATTS
15 LOUIS AVENUE
NEWINGTON, NSW
2127
AUSTRALIA

COPY MAILED
DEC 18 2006
OFFICE OF PETITIONS

In re Application of :
Piccionelli, et al. :
Application No. 11/140,599 : LETTER
Filed: May 26, 2005 :
Attorney Docket No. 39003.809US07 :
For: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT

Dear Mr. Batts:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Michael M. Gerardi
28876 Woodcrest Lake Drive
Menifee CA 92584

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

MICHAEL M. GERARDI
28876 WOODCREST LAKE DRIVE
MENIFEE CA 92584

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionnelli et al. :
Application No. 11/140,600 : DECISION REFUSING STATUS
Filed: May 26, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 39003.809US05 :

This decision is in response to the petition filed under 37 CFR 1.47(a) on December 2, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on May 26, 2005, with an unexecuted oath or declaration. Accordingly, on July 1, 2005, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a three month extension of time request and a declaration executed only by joint inventors, Gregory A. Piccionelli, Michael M. Gerardi and David W. Slaughter, in their own stead and on behalf of non-signing joint inventor Dwight J. Batts was filed. Petitioners claim that joint inventor Batts has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C.

§§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventors. Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventors refuse to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(d).

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MICHAEL M. GERARDI
28876 WOODCREST LAKE DRIVE
MENIFEE CA 92584

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionnelli et al. :
Application No. 11/140,600 : DECISION REFUSING STATUS
Filed: May 26, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 39003.809US05 :

This decision is in response to the Request for Reconsideration filed under 37 CFR 1.47(a)[1] on June 11, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on May 26, 2005, with an unexecuted oath or declaration. Accordingly, on July 1, 2005, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. In response, a petition, a three month extension of time request and a declaration executed only by joint inventors, Gregory A. Piccionelli, Michael M. Gerardi and David W. Slaughter, in their own stead and on behalf of non-signing joint inventor Dwight J. Batts was filed. Petitioners claimed hat joint inventor Batts refused to sign the

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[1] A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

declaration. The petition was dismissed in a decision mailed December 13, 2005 because petitioners had not submitted sufficient evidence to prove that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor for review and that after having received the application, the non-signing inventors refuse to sign the declaration.[2]

The instant request for reconsideration is filed with a four month extension of time and sets forth that "a copy of the patent disclosure was sent via e-mail attachment to the non-signing inventor."

The evidence submitted is not sufficient to show 1) that a copy of the "patent disclosure", as was termed by the petitioner, is the same as the complete application and 2) that the emailed document was in a form that could be read and comprehended by the intended recipient or that it was in fact received, opened and read by the intended recipient. Typically a non-signing inventor would indicate that the email was received and that they read the application or that they were unable to read the attachments in 37 CFR 1.47(a) scenarios.

In view thereof, the petition is not grantable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[2]MPEP 409.03(d).

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MICHAEL M. GERARDI
28876 WOODCREST LAKE DRIVE
MENIFEE CA 92584

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionnelli et al. :
Application No. 11/140,601 : DECISION REFUSING STATUS
Filed: May 26, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 39003.809US06 :

This decision is in response to the petition filed under 37 CFR 1.47(a) on December 2, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on May 26, 2005, with an unexecuted oath or declaration. Accordingly, on July 1, 2005, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a three month extension of time request and a declaration executed only by joint inventors, Gregory A. Piccionelli, Michael M. Gerardi and David W. Slaughter, in their own stead and on behalf of non-signing joint inventor Dwight J. Batts was filed. Petitioners claim that joint inventor Batts has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C.

§§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventors. Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventors refuse to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(d).

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MENIFEE CA 92584

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Gregory A. Piccionnelli et al. :
Application No. 11/140,601 : DECISION REFUSING STATUS
Filed: May 26, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 39003.809US06 :

This decision is in response to the Request for Reconsideration filed under 37 CFR 1.47(a)[1] on June 11, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on May 26, 2005, with an unexecuted oath or declaration. Accordingly, on July 1, 2005, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. In response, a petition, a three month extension of time request and a declaration executed only by joint inventors, Gregory A. Piccionelli, Michael M. Gerardi and David W. Slaughter, in their own stead and on behalf of non-signing joint inventor Dwight J. Batts was filed. Petitioners claimed hat joint inventor Batts refused to sign the

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[1] A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

declaration. The petition was dismissed in a decision mailed December 13, 2005 because petitioners had not submitted sufficient evidence to prove that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor for review and that after having received the application, the non-signing inventors refuse to sign the declaration.[2]

The instant request for reconsideration is filed with a four month extension of time and sets forth that "a copy of the patent disclosure was sent via e-mail attachment to the non-signing inventor."

The evidence submitted is not sufficient to show 1) that a copy of the "patent disclosure", as was termed by the petitioner, is the same as the complete application and 2) that the emailed document was in a form that could be read and comprehended by the intended recipient or that it was in fact received, opened and read by the intended recipient. Typically a non-signing inventor would indicate that the email was received and that they read the application or that they were unable to read the attachments in 37 CFR 1.47(a) scenarios.

In view thereof, the petition is not grantable.

Further correspondence with respect to this matter should be addressed as follows:

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P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[2]MPEP 409.03(d).

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Silva and Galley :
Application No. 11/140,610 :
Filed: May 27, 2005 :
Attorney Docket No. 3545.1002-001 :
For: Smart Container Gateway :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 31, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

Petitioner has not supplied a statement from a party with first hand knowledge of the facts. Proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

Petitioner should note that when there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. If the non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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AUG 2 9 2006
OFFICE OF PETITIONS

In re Application of :
Silva and Galley :
Application No. 11/140,610 :
Filed: May 27, 2005 :
Attorney Docket No. 3545.1002-001 :
For: Smart Container Gateway :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed June 16, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

The prior petition stated Silva told the attorney Galley would not be signing the declaration. The petition did not discuss the steps taken by Silva to try to obtain Galley's signature.

The instant petition includes a declaration by Silva. Silva indicates he sent a copy of a declaration and assignment to Galley. Silva does not indicate he sent a copy of the application to Galley.

Office policy requires a copy of an application be presented to an inventor in order to establish constructive refusal to sign a declaration. Petitioner must establish the inventor was able to sign the declaration but refused to sign the declaration. An inventor is unable to sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. In addition, until an inventor reviews the papers and reads the specification and claims, an inventor cannot know if he or she is actually an inventor of the claimed invention. Galley may misunderstand exactly what the instant application includes and is claiming.

Petitioner should send a copy of the application to Galley along with instructions setting a deadline for the return of a signed declaration. The letter to the inventor should state that, if petitioner receives no reply from the inventor, petitioner will interpret the lack of reply as a

refusal to sign the declaration. This sort of ultimatum lends support to a finding of refusal by conduct when a response is not received from an inventor. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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P.O. BOX 9133
CONCORD, MA 01742-9133

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FEB 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Silva and Galley	:	Decision Noting Joinder of Inventor and
Application No. 11/140,610	:	Decision Dismissing Any Request for
Filed: May 27, 2005	:	Status Under 37 CFR 1.47 as Moot
Attorney Docket No. 3545.1002-001	:	

Papers filed on October 30, 2006, in response to a Decision refusing to accord status under 37 CFR 1.47(a) mailed on August 29, 2006, include a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under Rule 1.47(a) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Initial Patent Examination will be informed of the instant decision so that it may take further steps, *if* any are necessary, to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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APR 17 2007

OFFICE OF PETITIONS

In re Application of :
R. Scott Silva, et al. :
Application No. 11/140,610 : DECISION ON PETITION
Filed: May 27, 2005 : TO WITHDRAW
Attorney Docket No. 3545.1002-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 14, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David J. Thibodeau, Jr. on behalf of all attorneys of record who are associated with customer No. 21005.

All attorneys/agents associated with the Customer Number 21005 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: MR. R. SCOTT SILVA
99 DERBY STREET
SUITE 200
HINGHAM, MA 02043-4216

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Daoshen Bi, et al.	:	
Application No. 11/140,613	:	ON PETITION
Filed: May 27, 2005	:	
Attorney Docket No. 38820-554001US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 6, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 7, 2009. The Notice of Abandonment was mailed April 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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 the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2887 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Paul D. Tidwell	: DECISION ON REQUEST FOR
Patent Number	: 7660850	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1208** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 05/17/2010

Applicant : Paul D. Tidwell
Patent Number : 7660850
Issue Date : 02/09/2010
Application No: 11/140,614
Filed : 05/27/2005

: 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 **1249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DEC 29 2005

OFFICE OF PETITIONS

Michael M. Gerardi, Esq.
28876 Woodcrest Lake Drive
Menifee, CA 92584

In re Application of	:
Piccionelli, et al.	: DECISION REFUSING STATUS
Application No. 11/140,621	: UNDER 37 CFR 1.47(a)
Filed: May 26, 2005	:
Dkt. No.: 39003.809US02	:
For: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT	:

This decision is in response to the petition under 37 CFR 1.47(a), filed December 1, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 26, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed June 27, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge.

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 fails to satisfy requirement (1) set forth above.

Petitioners allege that inventor Dwight J. Batts has refused to sign the declaration for the above-identified application after having been requested to do so by the other joint inventors.

Petitioners are 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 inventors.

Petitioners have failed to establish that the signing inventor received a complete copy of application papers for the instant application and thereafter refused to execute the declaration.

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.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor 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 indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor 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. Petitioners' 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael M. Gerardi, Esq.
28876 Woodcrest Lake Drive
Menifee, CA 92584

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of
Piccionelli, et al.
Application No. 11/140,621
Filed: May 26, 2005
Dkt. No.: 39003.809US02
For: RECORD-KEEPING SYSTEM FOR TRANSMISSION AND PRODUCTION OF CONTENT

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed June 29, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 26, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed June 27, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47 was filed December 1, 2005 and dismissed December 29, 2005.

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 fails to satisfy requirement (1) set forth above.

Petitioners continue to allege that inventor Dwight J. Batts has refused to sign the declaration for the above-identified application after having been requested to do so by the other joint inventors.

Petitioners are again 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 inventors.

Petitioners have failed to establish that the signing inventor received a complete copy of application papers for the instant application and thereafter refused to execute the declaration.

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.

The evidence submitted is not sufficient to show that the copy of the application papers purportedly forwarded to the inventor via email was in a form that could be read and comprehended by the intended recipient or that it was in fact received, opened and read by the intended recipient. Typically a non-signing inventor would indicate receipt of the email and referenced attachments in a 37 CFR 1.47(a) scenario.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor 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 indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor 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. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

Moreover, to the extent petitioners now allege the non-signing inventor cannot be reached or located, petitioners are advised that where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. 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. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael M. Gerardi, Esq.
Suite 200
2801 Townsgate Road
Westlake Village CA 91361

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Piccionelli, et al. :
Application No. 11/140,621 : DECISION ON PETITION
Effective Date: May 26, 2005 :
Attorney Docket No. 39003.809US 02 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned November 26, 2006 for failure to timely submit a proper reply to the decision on petition mailed September 25, 2006. The decision set a two month shortened statutory period of time for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed May 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 grantable renewed petition under 37 CFR 1.47(a), (2) the required petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3205.

This application is being referred to the Office of Patent Application Processing for further processing.

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

Michael M. Gerardi, Esq.
Suite 200
2801 Townsgate Road
Westlake Village CA 91361

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OFFICE OF PETITIONS

In re Application of
Piccionelli, et al.
Application No. 11/140,621
Effective Date: May 26, 2005
Attorney Docket No. 39003.809US 02

DECISION ON PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 28, 2008.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has either cannot be located or has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Dwight J. Batts
28876 Woodcrest Lake Dr.
Menifee, CA 92584

In re Application of
Piccionelli, et al.
Application No. 11/140,621
Effective Date: May 26, 2005
Attorney Docket No. 39003.809US 02

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MAR 0 2 2009

OFFICE OF PETITIONS

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: Michael M. Gerardi, Esq.
Suite 200
2801 Townsgate Road
Westlake Village CA 91361

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

Michael M. Gerardi, Esq.
28876 Woodcrest Lake Drive
Menifee, CA 92584

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of :
Piccionelli, et al. : DECISION REFUSING STATUS
Application No. 11/140,622 : UNDER 37 CFR 1.47(a)
Filed: May 26, 2005 :
Dkt. No.: 39003.809US04 :
For: RECORD-KEEPING SYSTEM FOR :
TRANSMISSION AND PRODUCTION OF :
CONTENT :

This decision is in response to the petition under 37 CFR 1.47(a), filed December 1, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 26, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed June 27, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge.

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 fails to satisfy requirement (1) set forth above.

Petitioners allege that inventor Dwight J. Batts has refused to sign the declaration for the above-identified application after having been requested to do so by the other joint inventors.

Petitioners are 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 inventors.

Petitioners have failed to establish that the signing inventor received a complete copy of application papers for the instant application and thereafter refused to execute the declaration.

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.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor 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 indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor 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. Petitioners' 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

UNITED STATES 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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SEP 25 2006

OFFICE OF PETITIONS

Michael M. Gerardi, Esq.
28876 Woodcrest Lake Drive
Menifee, CA 92584

In re Application of :
Piccionelli, et al. : DECISION REFUSING STATUS
Application No. 11/140,622 : UNDER 37 CFR 1.47(a)
Filed: May 26, 2005 :
Dkt. No.: 39003.809US04 :
For: RECORD-KEEPING SYSTEM FOR :
TRANSMISSION AND PRODUCTION OF :
CONTENT :

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed June 29, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 26, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed June 27, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47 was filed December 1, 2005 and dismissed December 29, 2005.

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 fails to satisfy requirement (1) set forth above.

Petitioners continue to allege that inventor Dwight J. Batts has refused to sign the declaration for the above-identified application after having been requested to do so by the other joint inventors.

Petitioners are again 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 inventors.

Petitioners have failed to establish that the signing inventor received a complete copy of application papers for the instant application and thereafter refused to execute the declaration.

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.

The evidence submitted is not sufficient to show that the copy of the application papers purportedly forwarded to the inventor via email was in a form that could be read and comprehended by the intended recipient or that it was in fact received, opened and read by the intended recipient. Typically a non-signing inventor would indicate receipt of the email and referenced attachments in a 37 CFR 1.47(a) scenario.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor 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 indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor 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. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

Moreover, to the extent petitioners now allege the non-signing inventor cannot be reached or located, petitioners are advised that where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. 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. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
James R. BAXTER, et al. :
Application No. 11/140,624 : DECISION GRANTING PETITION
Filed: May 27, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **24369-524** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 9, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 21, 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 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

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APR 15 2010

OFFICE OF PETITIONS

In re Application of :
Baxter et al. :
Application No. 11/140,624 :
Filed: May 27, 2005 :
Attorney Docket No. 24369-524 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(b)" filed June 23, 2009. Applicants request the determination of patent term adjustment be increased from eight hundred sixteen (816) days to eight hundred seventy-one (871) days.

The request for reconsideration of the initial determination of patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PAIR screen to reflect the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred eighty-three (683) days. A copy of the updated PAIR screen is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on March 23, 2009. Applicants were advised of a patent term adjustment to date of 816 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on June 23, 2009.

Applicants contend the patent term adjustment should be increased to 871 days.

Issue 1

To the extent applicants request 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 request is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. *See* 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the 37 C.F.R. § 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 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 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 C.F.R. § 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.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 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]

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 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Issue 2

As part of Applicants' duty of candor and good faith, Applicants indicate a 55-day reduction should have been entered as a result of delay in responding to a Notice to File Missing Parts mailed June 29, 2005.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request.

A response to the Notice to File Missing Parts was not filed until November 23, 2005, three months and 55 days after the Office mailed the Notice to File Missing Parts. Therefore, the Office agrees a 55-day reduction should have been entered under 37 C.F.R. § 1.704(b).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 1.705(b) and 35 U.S.C. § 154(b)(3)(B). A dispute as to the calculation of the 37 C.F.R. § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(d) will be dismissed as untimely filed.

Pursuant to 37 C.F.R. § 1.704(b), a reduction of 55 days of patent term adjustment has been entered for Applicants' delay in responding to the Notice to File Missing Parts.

Issue 3

As part of Applicants' duty of candor and good faith, Applicants indicate a 1-day reduction should have been entered for delay in responding to an October 20, 2008 Notice of Allowance.

The Office mailed a Notice of Allowance on October 20, 2008. Applicants paid the issue fee on January 21, 2009.

Since the reply to the October 20, 2008 Notice of Allowance was filed three months and one day after the Office mailed the Notice of Allowance, the Office agrees a 1-day reduction should have been entered under 37 C.F.R. § 1.704(b).

Pursuant to 37 C.F.R. § 1.704(b), a reduction of 1 day of patent term adjustment has been entered for Applicants' delay in responding to the October 20, 2008 Notice of Allowance.

Issue 4

Although not referenced in the petition, a review of the record indicates a reduction should have been entered as a result of the request under 37 C.F.R. § 1.48 filed November 12, 2008.

The Office mailed a Notice of Allowance on October 20, 2008. Applicants filed a request under 37 C.F.R. § 1.48 on November 12, 2008. The Office mailed a Supplemental Notice of Allowability on December 15, 2008, addressing the request under 37 C.F.R. § 1.48.

37 C.F.R. § 1.704(c)(10) states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months.

The time period beginning on November 12, 2008, the date the request under 37 C.F.R. § 1.48 was filed, and ending on December 15, 2008, the date the Office mailed a response to the request, is 34 days. Therefore, a reduction of 34 days of patent term adjustment should have been entered.

Pursuant to 37 C.F.R. § 1.704(c)(10), a reduction of 34 days of patent term adjustment has been entered as a result of the request under 37 C.F.R. § 1.48 filed November 12, 2008.

Issue 5

Although not referenced in the petition, a review of the record indicates a reduction should have been entered as a result of papers filed February 9, 2009.

As previously stated, the Office mailed a Notice of Allowance on October 20, 2008, and the issue fee was paid January 21, 2009. On February 9, 2009, Applicants filed a petition to withdraw the application from issue, Request for Continued Examination ("RCE"), and Information Disclosure Statement ("IDS). A decision granting the petition was mailed February 12, 2009. A new Notice of Allowance was mailed March 23, 2009.

The filing of the petition to withdraw from issue, RCE, and IDS after the mailing of the October 20, 2008 Notice of Allowance constitutes a failure to engage in reasonable efforts to conclude processing and examination of the application under 37 C.F.R. § 1.704(c)(10).

The number of days beginning on February 9, 2009, the date Applicants filed the petition to withdraw from issue, RCE, and IDS, and ending on March 23, 2009, the date the Office mailed the new Notice of Allowance, is 43 days.

Pursuant to 37 C.F.R. § 1.704(c)(10), a reduction of 43 days of patent term adjustment has been entered as a result of the filing of the petition to withdraw from issue, RCE, and IDS on February 9, 2009.

Conclusion:

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, the application is dismissed as premature.

Pursuant to 37 C.F.R. § 1.704(b), a reduction of 55 days of patent term adjustment has been entered for the time period beginning on September 30, 2005, and ending on November 23, 2005.

Pursuant to 37 C.F.R. § 1.704(b), a reduction of 1 day of patent term adjustment has been entered for the time period consisting of January 21, 2009.

Pursuant to 37 C.F.R. § 1.704(c)(10), a reduction of 34 days has been entered as a result of the request under 37 C.F.R. § 1.48 filed November 12, 2008.

Pursuant to 37 C.F.R. § 1.704(c)(10), a reduction of 43 days has been entered as a result of the filing of the petition to withdraw from issue, RCE, and IDS on February 9, 2009.

The Office notes, although three periods of Applicant delay fall within the time period beginning on October 20, 2008, the date the Office mailed the first Notice of Allowance, and ending March 23, 2009, the date the Office mailed the second Notice of Allowance, the three periods of delay do not overlap. The 1-day reduction is based on January 21, 2009 delay. The 34-day reduction

is based on the time period from November 12, 2008, to December 15, 2008. The 43-day reduction is based on the time period from February 9, 2009, until March 23, 2009.

The patent term adjustment at the time of mailing of the Notice of Allowance has been changed from 816 days to **683 days**, which is 816 days of Office delay under 37 C.F.R. § 1.703(a)(1) reduced by 133 (55 + 1 + 34 + 43) days of Applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Applicants are reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. §1.704(c)(10) accrued for delay after the mailing of the second Notice of Allowance will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Wednesday

PALM INTRANET

Date: 4/14/2010
Time: 12:39:57

PTA Calculations for Application: 11/140624			
Application Filing Date:	05/27/2005	PTO Delay (PTO):	816
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	683
PTO Delay Adjustment:	-133		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	04/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		133	
63	03/23/2009	MAIL NOTICE OF ALLOWANCE			
62	03/19/2009	ISSUE REVISION COMPLETED			
61	03/19/2009	DOCUMENT VERIFICATION			
60	03/19/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	03/17/2009	NOTICE OF ALLOWABILITY			
58	02/09/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	03/13/2009	DATE FORWARDED TO EXAMINER			
55	02/09/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
54	03/13/2009	DISPOSAL FOR A RCE / CPA / R129			
53	02/12/2009	WITHDRAWAL PATENT CASE FROM ISSUE			
52	02/12/2009	MAIL-PETITION DECISION - GRANTED IN PART			
51	02/12/2009	PETITION DECISION - GRANTED IN PART			
50	02/09/2009	PETITION ENTERED			
48	02/11/2009	ISSUE NOTIFICATION MAILED			
47	02/11/2009	WORKFLOW - REQUEST FOR RCE - FINISH			
46	02/11/2009	WORKFLOW - INFORMATIONAL DISCLOSURE STATEMENT - FINISH			
45	03/03/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
44	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	02/09/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			

41	01/27/2009	EXPORT TO FINAL DATA CAPTURE			
40	01/26/2009	DISPATCH TO FDC			
39	01/22/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
38	01/21/2009	RESPONSE TO REASONS FOR ALLOWANCE			
37	01/20/2009	ISSUE FEE PAYMENT VERIFIED			
36	01/21/2009	ISSUE FEE PAYMENT RECEIVED			
35	01/06/2009	FINISHED INITIAL DATA CAPTURE			
34	12/15/2008	MAIL EXAMINER'S AMENDMENT			
33	11/12/2008	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
32	12/10/2008	EXAMINER'S AMENDMENT COMMUNICATION			
31	11/12/2008	PUBS CASE REMAND TO TC			
30	11/12/2008	SUPPLEMENTAL PAPERS - OATH OR DECLARATION			
29	10/24/2008	EXPORT TO INITIAL DATA CAPTURE			
28	10/20/2008	MAIL NOTICE OF ALLOWANCE	816		-1
27	10/17/2008	ISSUE REVISION COMPLETED			
26	10/17/2008	DOCUMENT VERIFICATION			
25	10/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
24	10/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
23	10/15/2008	NOTICE OF ALLOWABILITY			
18	02/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	07/18/2008	CASE DOCKETED TO EXAMINER IN GAU			
16	02/08/2008	TRANSFER INQUIRY TO GAU			
15	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
14	10/16/2007	FLAGGED FOR 5/25			
13	08/15/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	02/13/2007	REFERENCE CAPTURE ON IDS			
11	02/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	02/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/05/2005	APPLICATION DISPATCHED FROM OIPE			
8	12/05/2005	APPLICATION IS NOW COMPLETE			
7	11/23/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			

6	11/23/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/23/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
3	06/10/2005	CLEARED BY OIPE CSR			
2	06/06/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/27/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MAY 21 2008

In re Application of	:	
EILERS, Robert	:	
Application No. 11/140,639	:	DECISION GRANTING PETITION
Filed: May 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **CD04132**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 20, 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 April 24, 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 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Thomas F. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7667025	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Kie Y. Ahn	: DECISION ON REQUEST FOR
Patent Number	: 7572695	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: 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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Allen M. Krass
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
2701 Troy Center Direve, Suite 330
Troy, MI 48007-7021

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DEC 0 1 2005

Director's Office
Group 3700

In re application of
Michael R. Levine

Serial Number: 11/140,657
Filed: May 27, 2005

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **SUBMERGED CONDENSER FOR STEAM POWER PLANT**

This is a decision on the petition filed on November 16, 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: 11/30/05

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MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Eric Billingsley	: DECISION ON REQUEST FOR
Patent Number	: 7571195	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,660	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **564** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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James E. Bradley
Bracewell & Giuliani LLP
P.O. Box 61389
Houston TX 77208-1389

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OFFICE OF PETITIONS

In re Application of
John Chianis, Jayant Basak, Chandramohan Nair, Stephen Bultema and Jeremy Denman
Application No.11/140,666
Filed: May 27, 2005
Attorney Docket No. 021675.044230
Title of Invention: METHOD FOR DEPLOYING FLOATING PLATFORM

: DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed August 31, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventors Chianis and Bultema have not been located. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventors Chianis and Bultema

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The current petition fee is $200.00. Accordingly deposit account 50-0259 will be charged the $70.00 difference

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

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OFFICE OF PETITIONS

In re Application of :
Lemke, et al. :
Application No. 11/140,677 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. FCI-2893/C3549A

This is a decision on the petition under 37 CFR 1.48 to add an inventor to the above-cited application, filed July 3, 2008.

The petition is **dismissed.**

The instant petition was filed to add Timothy Lemke as a joint inventor on the above-cited application. A successful petition under 37 CFR 1.48(a) requires submission of the following:

1) a request to correct the inventorship that sets forth the desired inventorship change;
2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
3) an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42 or 1.43 or § 1.47;
4) the processing fee set forth in § 1.17(i), and
5) if an assignment has been executed by any of the original inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The instant petition fails to satisfy the requirements of item (3) above. Further to this point, it is noted that the declaration of inventor Lemke includes a hand-written amendment at the bottom of the declaration indicating that he should be added to the application as a joint inventor. Section 602.01 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required. However, in some cases, a deficiency in the oath or declaration can be corrected by a supplemental paper such as an application data sheet (see 37 CFR 1.76 and MPEP § 601.05) and a new oath or declaration is not necessary. See 37 CFR 1.63(c)(1) and (c)(2).

The renewed petition must be accompanied by a proper supplemental declaration executed by inventor Lemke which does not contain any amendments or alterations.

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 concerning this matter 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

WOODCOCK WASHBURN, LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of :
Minich, et al. :
Application No. 11/140,677 : ON PETITION
Filed: May 27, 2005 :
Attorney Docket No. FCI-2893/C3549A :

This is a decision on the petition filed July 7, 2008, requesting that the order of inventors on the above-cited application be changed.

The petition is **dismissed.**

Although the petition was accompanied by an Application Data Sheet (ADS) which set forth the change to the order of inventors, the ADS was not signed in accordance with 37 CFR 1.33(b). The renewed petition must be accompanied by a properly executed ADS[1].

The fee for the instant petition is $400.00. Deposit account 23-3050 will be charged an additional $270.00 accordingly.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that disposition of this petition is dependent upon a favorable decision on the renewed petition under 37 CFR 1.48 to add Timothy Lemke as a joint inventor on this application.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

3/31/07

Patent No. : 7262958
Inventor(s) : Marroquin, Marco A. et al.
Issued : 8/28/2007
Title : APPARATUS AND METHOD FOR SECURING A COMPONENT IN AN INFORMATION HANDLING SYSTEM
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that claims 9,10,11,12,13, & 14 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

HR/CBN

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

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Kunikazu Miyamoto	: DECISION ON REQUEST FOR
Patent Number	: 7651338	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/140,705	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of
Murderlak, et al.
Application No. 11/140,707
Filed: May 31, 2005
Attorney Docket No. 11758-352

DECISION ON PETITION

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**.

This application became abandoned December 27, 2008 for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due, mailed September 26, 2008. Notice of Abandonment was mailed January 21, 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 and the publication fee (the required issue fee was charged to petitioners' deposit account, as authorized), (2) the required petition fee; and (3) a proper statement of unintentional delay.

In view of the request for removal of small entity status, the requirement fees have been accepted in large entity amounts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3205.

This application is being referred to Publishing Division for processing into a patent.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/140,707	05/31/2005	Kenneth J. Muderlak	11758-352

CONFIRMATION NO. 3986

24239
MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

POA ACCEPTANCE LETTER

OC000000035141779

Date Mailed: 03/24/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/17/2009.

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.

/ambrown/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/140,707	05/31/2005	Kenneth J. Muderlak	11758-352

CONFIRMATION NO. 3986

757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

POWER OF ATTORNEY NOTICE

OC000000035141773

Date Mailed: 03/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/17/2009.

- 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).

/ambrown/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
Kevin C. Zuege, et al. :
Application No. 11/140,729 : ON PETITION
Filed: May 31, 2005 :
Attorney Docket No. TRUS.P0113US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 30, 2010. The Notice of Abandonment was mailed April 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 1783 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

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Paper No.

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Tanaka et al. : DECISION DISMISSING
Application No. 11/140,748 : PETITION
Filed: June 1, 2005 :
Atty Docket No. 124155 :

This is a decision on the "PETITION UNDER 37 C.F.R. §1.53(b) - THE APPLICATION WAS COMPLETE AS FILED ON JUNE 1, 2005," filed August 16, 2005. This petition is properly treated as a petition under 37 C.F.R. §1.53(e)(2). Petitioners request that the Office accord the above-identified application a filing date of June 1, 2005, with figure 9 as a part of the original application disclosure.

Application papers in the above-identified application were filed on June 1, 2005. However, on July 1, 2005, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicants were thereby notified that the application papers had been accorded a filing date; however, Figure 9 described in the specification appeared to have been omitted.

In response, applicants timely filed the instant petition (and petition fee). Applicants assert that the application, including 12 pages drawings (figure 9), was filed in the Office on June 1, 2005. In support thereof, applicants submitted a copy of their return postcard from the USPTO and a copy of their hand-carry receipt. Applicants also submitted a copy of figure 9.

A postcard receipt, which itemizes and properly identifies the items which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of both petitioner's postcard receipt and hand-carry receipt reveal

that: 1) they were date stamped as received in the USPTO on June 1, 2005 and the papers filed with the postcard were assigned application No. 11/140,748; 2) they specifically identify the items being filed, including "12 pp dwngs (Figs. 1A-12)" and 3) they both lack any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 12 pp drawings (Figs. 1A-12), were filed on June 1, 2005.

The application papers already considered received in the Office on June 1, 2005, were reviewed along with the missing figure 9 submitted on petition. However, these papers together do not constitute the items described on the postcard receipt or hand-carry receipt as "12 pp dwngs (Figs. 1A-12)." On petition, petitioners submitted figure 9 on page 9/12. However, 12 sheets of drawings were already present in the application as filed, with figure 9 missing. Specifically, the application papers presently accorded a filing date of June 1, 2005, include 12 sheets of drawings, 2 of which are labelled p. 9/12. Moreover, these 2 sheets both contain figure 10. This evidence rebuts the presumption that the postcard receipt is prima facie evidence of receipt of 12 sheets of drawings, including figure 9, in the Office on June 1, 2005. The postcard confirms that the Office received 12 sheets of drawings on June 1, 2005 with figures within the range of 1A-12. The record shows that those 12 sheets included two labelled 9/12, both containing figure 10.

In view thereof, the petition is **DISMISSED**.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is thereby returned to OIPE for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Jerry D. Meyers et al	:	
Application No. 11/140,761	:	DECISION DISMISSING PETITION
Filed: May 31, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3147/SPR1.118318	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 11/089,667, filed March 25, 2005, and nonprovisional Application No. 10/298,074, filed November 15, 2002.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above. In this regard, the claim for priority to the prior-filed applications is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. Also note that 37 CFR 1.4(c) states that each distinct subject must

be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office. Also, note that the relationship of each application to the other must be stated (*i.e.* continuation, division, or continuation-in-part). Petitioner is further advised that the use in the amendment (or Supplemental Application Data Sheet) of an incorporation by reference statement after the filing of an application is improper.

Before the petition can be granted, petitioner must submit an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in a Supplemental Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5). If made in a Supplemental Application Data Sheet, it must be signed in accordance with 37 CFR 1.33(b).

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OVERLAND PARK KS 66251-2100

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OCT 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jerry D. Meyers et al	:	
Application No. 11/140,761	:	DECISION GRANTING PETITION
Filed: May 31, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 3147/SPR1.118318	:	

This is a decision on the RENEWED petition under 37 CFR 1.78(a)(3), filed August 14, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 11/089,667, filed March 25, 2005, and nonprovisional Application No. 10/298,074, filed November 15, 2002.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2834 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.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/140,761	05/31/2005	2834	1130	3147a/spri.118318	20	3

CONFIRMATION NO. 4619

32423
SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

CORRECTED FILING RECEIPT

OC000000026093509

Date Mailed: 10/01/2007

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)

Jerry D. Meyers, Olathe, KS;
Julie A. Willets, Overland Park, KS;
Larry L. Johnson, Overland Park, KS;

Assignment For Published Patent Application

Sprint Communications Company L.P., Overland Park, KS

Power of Attorney: The patent practitioners associated with Customer Number **32423**.

Domestic Priority data as claimed by applicant

This application is a CIP of 11/089,667 03/25/2005 PAT 7,157,803
and is a CIP of 10/298,074 11/15/2002 PAT 6,960,838

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 US11/140,761

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Modular cell site with air-turbine backup

Preliminary Class

290

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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Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield CT 06824

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OFFICE OF PETITIONS

In re Application of	:	
WIDMER	:	
Application No. 11/140,778	:	DECISION GRANTING PETITION
Filed: May 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. YOR920050124US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 7, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 18, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and Information Disclosure Statement.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of	:	
Frank J. Euvino Jr. et al.	:	
Application No. 11/140,789	:	DECISION ON PETITION
Filed:	:	PURSUANT TO
Attorney Docket Number: PA-085.10921-US	:	37 C.F.R. § 1.137(B)
Title: MODULAR FAN INLET CASE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 22, 2007, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The concurrently submitted Revocation of Power of Attorney and Change of Correspondence Address has been entered and made of record.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed November 16, 2006, 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 February 17, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was filed concurrently with this petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/16/09

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 11140794 Patent No.: 7309011

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 9C62-D
Palm Location 7580

[redacted]

Lamonte

Newsome

Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

PAGE 2/3 * RCVD AT 12/1/2009 3:58:34 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Michael G. Lee/ 2876

SPE Art Unit

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Jonathan P. O'Brien, Ph.D.
Honigman Miller Schwartz & Cohn LLP
350 East Michigan Avenue
Suite 300
Kalamazoo MI 49007

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OFFICE OF PETITIONS

In re Application of	:	
Makings et al.	:	
Application No. 11/140,808	:	DECISION ON
Filed: May 31, 2005	:	APPLICATION FOR
Docket No. 04121/223306/120280	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705(b)" filed January 6, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand seventy-three (1,073) days. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent.

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 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]

With respect to applicants' other basis for filing this paper, the application for patent term adjustment is **DISMISSED**.

On October 8, 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 330 days. On January 6, 2010, applicants timely

---

[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.

submitted the instant application for patent term adjustment with payment of the issue fee.

Applicants dispute the reduction of 54 days pursuant to 37 CFR 1.704(c)(7) for the submission of a non-compliant amendment on December 5, 2008. Applicants assert:

> [T]he issue raised in the Notice Of Non-Responsive Amendment, mailed on January 14, 2009 should have been addressed in a prior Notice Of Non-Responsive Amendment.
>
> Specifically, the amendment filed by the Applicant on August 6, 2008 was non-responsive in that claim 46 was amended to remove the word "method" and insert the word "compound" without showing the markup or the status identifier, "currently amended." The amendment filed by the Applicant on August 6, 2008 was also non-responsive in that all the text of new claim 76 was mistakenly underlined. The Examiner, Jeffery Murray, mailed a Notice Of Non-Responsive Amendment on November 14, 2008 which addressed only the problems with claim 46. After the Applicant filed a response to the notice on December 5, 2008, the Examiner mailed a second Notice Of Non-Responsive Amendment on January 14, 2009 which addressed the problem with new claim 76.
>
> The issue addressed in the second Notice Of Non-Responsive Amendment should have been addressed in the first Notice Of Non-Responsive Amendment. Accordingly, the Patent Office cannot hold the Applicant responsible for the delay beginning on the date of the Applicant's response to the first Notice of Non-Responsive Amendment (December 5, 2008) and ending on the date of the Applicant's response to the second Notice of Non-Responsive Amendment (January 28, 2009). This period of time is equal to 54 days. Further, this 54 day period must be removed from the Patent Office's account of "Total Applicant Delay."

Petition, 01/06/10, pp. 5-6.

Applicants' argument has been considered, but is unpersuasive. On November 14, 2008, the Office mailed a Notice indicating that the reply filed on August 6, 2008, was not fully responsive to the prior Office action because it contained an omission. On December 5, 2008, applicants filed an amendment to correct the omission in

the response filed on August 6, 2008. However, the Office mailed a Notice of Non-Compliant Amendment (37 CFR § 1.121) on January 14, 2009, advising applicants that the amendment as filed on December 5, 2008, was considered non-compliant. On January 28, 2009, applicants submitted a response correcting the omission.

Pursuant to 37 CFR 1.704(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:

> (7) Submission of a reply having an omission (§ 1.135(c)), 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 reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed[.]

On petition, applicants admit that "[t]he amendment filed by the Applicant on August 6, 2008 was also non-responsive in that all the text of new claim 76 was mistakenly underlined." *Petition, 01/06/10, p. 5.* Thus, it is undisputed that the amendment submitted on August 6, 2008, contained an omission. The submission of a non-compliant amendment is a proper basis for reduction of patent term under 37 CFR 1.704(c)(7). Furthermore, the Office reminds applicants that the filing of a reply that is complete is within the control of the applicant. Accordingly, the period of reduction of 54 days for the submission of the non-compliant amendment is warranted and will not be removed.

Next, applicants assert that the period of reduction for applicant delay for the filing of the supplemental reply to the final Office action on August 26, 2009, should be 40 days, not 41 days as shown on the Patent Term Adjustment Calculation Sheet in PAIR.

37 CFR 1.704(c)(8) states:

> 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, the period of adjustment was properly reduced by 41 days, counting the number of days beginning on the day after the date the initial reply was filed, July 17, 2009, and ending on the date that the supplemental reply was filed, August 26, 2009. See 37 CFR 1.704(c)(8). Accordingly, the period of reduction of 41 days will remain.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains 330 days.

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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107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

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OFFICE OF PETITIONS

In re Application of :
Horvath et al. :
Application No. 11/140,822 : DECISION ON PETITION
Filed: May 31, 2005 :
Attorney Docket No. SERVIER 462 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 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 September 26, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 26, 2008. Accordingly, the date of abandonment of this application is September 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

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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Paper No. 051507

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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

In re Application of:
Coombs et al.
Serial No.: 11/140839
Filed: May 31, 2005
Attorney Docket No.: 78383DIV2 (18-27 USDIV2)

PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.48 (a)

This is a decision on the petition filed October 13, 2001 to correct inventorship under 37 CFR 1.48 (a) which is being considered as a petition under 37 CFR 1.324.

The petition is granted.

In view of the papers received January 16, 2007, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the names:

Shaun McCaffery	409 North St. #H, Healdsburg, CA, 95448, U.S.A.
Bruce Matson	1610 Hurlbut Ave., Sebastopol, CA, 95472, U.S.A.;
Matthew R. Witzman	602 Dillon Lane, Santa Rosa, CA, 95407, U.S.A.;
John Reinecke	1020 Wikiup Drive, Santa Rosa, CA, 95403, U.S.A.

A corrected filing receipt will be issued, and the records of the Office will be corrected to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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MEYER, UNKOVIC & SCOTT
1300 OLIVER BUILDING
PITTSBURG, PA 15222

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of :
Mikhail FINKEL, et al :
Application No. 11/140,855 : DECISION ON PETITION
Filed: May 31, 2005 :
Attorney Docket No. 275096.101 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 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 January 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) the proper statement of unintentional delay.

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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received April 20, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: DAVID G. OBERDICK
535 SMITHFIELD STREET,
SUITE 1300
PITTSBURGH, PA 15222

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/140,881	06/01/2005	Keiko Saeki	273038US6	5662

7590 07/22/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
KAMAL, SHAHID	

ART UNIT	PAPER NUMBER
3621	

NOTIFICATION DATE	DELIVERY MODE
07/22/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
07/21/2008 0030058704

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1006

Adjustment date: 07/21/2008 NFARMER
06/02/2005 CNGUYEN2 00000049 11140881
02 FC:1111 -500.00 OP

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POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG VA 22404

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In re Application:	:	
Yakov Kamen	:	
Application No. 11/140,885	:	NOTICE
Filed: May 31, 2005	:	
Attorney Docket No. 0320-044	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 10, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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1940 DUKE STREET
ALEXANDRIA, VIRGINIA 22314

In re Application of	:
KAKUO, SHINGO	:
Serial No.: 11/140,960	:Decision on Petition
Filed : June 1, 2005	:
Attorney Docket No.: 273244US0	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on July 02, 2007 requesting to review the proceedings in the present application and to direct entry and examination of claims 29-52, which have been held to be withdrawn from examination under the doctrine of constructive election by original presentation. The delay in acting upon this petition is regretted.

BACKGROUND

On December 06, 2005, the examiner mailed a non-final office action rejecting claims 1 and 2 under 35 U.S.C. 101, rejecting claims 1 and 3 under 35 U.S.C. 112 first paragraph, rejecting claims 1-3 under 35 U.S.C. 112 second paragraph, rejecting claims 1 and 3 under 35 U.S.C. 102 (b), rejecting claim 1 under 35 U.S.C. 102(a) and rejecting claim 1 under 35 U.S.C. 102 (e).

On March 06, 2006 applicant responded by arguing the rejections, canceling claims 1-2, amending claim 3 and adding claims 4-27.

On May 22, 2006, the examiner mailed a letter indicating that applicant's amendment of March 06, 2006 is not fully responsive to the previous Office action. The examiner indicated that substantial amendment to claim 3 and newly submitted claims 4-27 are directed to the inventions that are independent or distinct from the invention originally claimed for the following reasons: the subject matter of claim 3 as originally presented for prosecution on the merits, was directed to a method for activating aromatase comprising compounds selected from a Markush group to a human individual, wherein the subject matter of newly amended claim 3 is directed to a method of increasing expression of the aromatase gene comprising treating a cell population with an effective amount of an ethanol extract of the Markush group. Thus, while the subject matter of claim 3 as originally presented for prosecution on the merits, was directed to an in vivo method of activating aromatase, the subject matter newly amended claim 3 is directed either an in vivo

method or an in vitro method of increasing expression of the aramatse gene. Moreover, the subject matter of the newly submitted claims is directed to an isolated aromatase activator comprising an ethanol extract of at least one member selected from the Markush group, whereas the subject of the cancelled claim 1, as originally presented for prosecution on the merits, was directed to an aromatase inhibitor comprising at least one member selected from a Markush group drawn to non-statutory matter as well as the extracts of some components. The examiner concluded, since applicant has received an action on the merits for the originally filed invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly claims 3-27 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142 (b) and MPEP 821.03.

On July 21, 2006 applicant filed a response arguing the issues set forth in the examiner's letter of May 22, 2006, and amended claim 3 by adding "a human individual in need thereof".

On September 28, the examiner mailed a letter indicating the same arguments as in the letter of May 22, 2006, and withdrawing claims 3-27 from consideration as being directed to non-elected invention.

On December 28, 2006 applicant filed a response arguing the remarks set forth in the office action of September 28, 2006, canceling claims 4-27 and submitting new claims 28-52.

On June 4, 2007 the examiner mailed an Office action requesting an election of species for claim 28, and indicated that claims 29-52 were withdrawn from consideration as being directed to non-elected invention.

On July 2, 2007 applicant filed a response to the election of species of June 4, 2007, arguing the restriction requirement and provisionally elected, with traverse, oryza oil for examination purpose.

On July 02, 2007 applicant filed a petition for review the proceedings in the instant application and to direct entry and examination of claims 29-52.

DISCUSSION

The petition and file history have been carefully considered. The petition requests entry and examination of claims 29-52, which have been held to be withdrawn from examination under the doctrine of constructive election by original examination.

The petitioners argue that claim 29, which was originally presented as claim 4, in response filed on March 6, 2006, is within the scope of original claim 1 and, thus has been properly presented throughout the examination. With respect to claim 29 (previously claim 4), the examiner alleges that this claim is drawn to an isolated aromatase activator comprising an ethanol extract of at least one member of Markush group. Therefore, the examiner alleges that claim 29 (previously claim 4) is distinct from original claim 1. Petitioners continue to disagree with the examiner's characterization of the relationship of the associated claims, as well as the conclusion of

constructive election, based on the presence of the phrase "an extract thereof" in original claim 1 and the addition of the phrase "in a human individual in need thereof" to claim 28.

Upon the review of the prosecution history, it is concluded, that in original claim 1, the phrase an "extract thereof" pertained to each of the plant species preceding it. Applicant has narrowed the scope of claim 1 in claim 4, and subsequently in claim 29, by the addition of "an ethanol extract". From the foregoing, it is clear that claim 29 falls within the original claim 1.

Original claims 1-3, directed to both the product and method of use, were examined together in the first Office action on the merits.

MPEP 803 sets forth two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and

(B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808)

Because the first Office action on the merits has been issued which already addressed all of the original claims 1-3, directed to both the product invention and the process of use, any restriction requirement now between the product and process of use would be inappropriate as not burdensome.

Similarly, because the first Office action on the merits has been issued which already addressed all of the original claim 1, which contained a lengthy Markush grouping of extracts, any requirement for a provisional election of species now would be inappropriate as not burdensome.

The application also has claims 30, 38 and 46, which are directed to a method of increasing expression of aromatase gene comprising treating cell population with an effective amount of ethanol extract of aromatase activator of claims 29, 37 and 45. Applicant has amended claim 28 by adding the phrase "in a human individual in need thereof". The examiner has withdrawn claims 30, 38, 46 and their dependent claims from consideration, indicating that they are not within the scope of originally filed claim 3. However, claims 30, 38 and 46 are considered to be generic claims, which encompass the in-vivo treatment submitted by original presentation. Therefore, such claims encompass the scope of originally presented claim 3.

DECISION

The Petition is **GRANTED.**

The 4 June 2007 requirement for a provisional election of species in claim 28 is withdrawn. Claims 29-52 are rejoined for examination.

The application will be forwarded to the examiner for consideration of the response filed 2 July 2007 and for further action consistent with this decision.

It is noted that the petitioners also request that a full period of time starting from the mailing of the notice of May 22, 2006, to the final resolution of this petition should be considered administrative leave delay and should be returned to petitioners in the manner of patent term adjustment under 35 U.S.C.154 (b). This request is not granted. It is premature for the Office to consider any questions about patent term adjustment because, at this time, the application has not issued as a patent.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600
jb/zf

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OFFICE OF PETITIONS

DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

In re Patent No. 7,638,918
Issue Date: December 29, 2009
Application No. 11/140,986
Filed: June 1, 2005
Attorney Docket No. 04089A

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the Request To Issue A Certificate Of Correction filed January 7, 2010 which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application by way of a certificate of correction.

The petition is **GRANTED.**

The instant application was filed June 1, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(6), 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 provisional 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)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The Filing Receipt mailed June 17, 2005 includes the priority claim to the above-noted, prior-filed nonprovisional application.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(6).

/David Bucci/
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasuhiro Okuno et al :
Application No. 11/140,996 :
Filed: June 1, 2005 :
Attorney Docket No. 00862.109708 :

This is a decision on the petition filed August 8, 2005, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of June 1, 2005, with Figure 4 as part of the original disclosure.

The application was filed on June 1, 2005. On June 30, 2005, the Office of Initial Patent Examination mailed a "Notice Of Omitted Item(s) in A Nonprovisional Application (Notice)" stating that the application has been accorded a filing date of June 1, 2005, but that Figure 4 described in the specification appeared to have been omitted from the filed application.

In response, on August 8, 2005, the petition contends that the allegedly omitted drawing was filed with other application papers on June 1, 2005. In support, the petition is accompanied by a copy of a postcard receipt, indicating receipt in the USPTO for this application on June 1, 2005 of, *inter alia*, "4 sheets of formal drawings." The petition also encloses a copy of drawing (Figure 4) purportedly filed on June 1, 2005.

In view of the evidence presented, the Office concludes that the drawing of Figure 4 was filed on June 1, 2005, but was later misplaced. Accordingly, the petition is granted.

No fee is required and none has been charged.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of June 1, 2005, using the application papers filed on that date, and the copy of drawing Figure 4 supplied with the present petition, and for indicating in the USPTO record that 4 sheets of drawings were present on filing.

Frances Hicks for
Brian Hearn
Senior Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Takeo Kawase	:	
Application No. 11/141,005	:	DECISION GRANTING PETITION
Filed: June 1, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 114250.01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 17, 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 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 regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2889 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.*