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MAR 15 2007

OFFICE OF PETITIONS

XILINX, INC.
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE CA 95124

In re Application of	:	
Steven P. Young	:	
Application No. 11/152,439	:	ON PETITION
Filed: June 14, 2005	:	
Attorney Docket No. X-1589-1 US	:	

This is a decision on the petition, filed March 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination).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

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

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

The examiner of Technology Center AU 2819 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Brian Mitchell Bass	: DECISION ON REQUEST FOR
Patent Number	: 7590057	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,453	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Hong-Sil Jeong	: DECISION ON REQUEST FOR
Patent Number	: 7593486	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,456	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1070** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DAVID E. NEWHOUSE, ESQ.
NEWHOUSE & ASSOCIATES
477 NINTH AVE. 112
SAN MATEO, CA 94402-1858

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OFFICE OF PETITIONS

In re Application of	:	
CHANG, Wen-Lung	:	
Application No. 11/152,458	:	DECISION ON PETITION
Filed: June 14, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **2610 Mag. Pick-up Tool**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 16, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by Wen-Lung Chang 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 Michelle R. Eason at 571-272-4231.

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 2832 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/152,466	06/13/2005	2122	1000	200405310-1	15	18	3

CONFIRMATION NO. 8009

CORRECTED FILING RECEIPT

OC000000016846188

022879
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

Date Mailed: 08/23/2005

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

Applicant(s)

Virendra Kumar Mehta, Santa Clara, CA;

Power of Attorney: The patent practitioners associated with Customer Number **022879**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/152,466

Projected Publication Date: 12/14/2006

Non-Publication Request: No

Early Publication Request: No

Title

Handling caught exceptions

Preliminary Class

717

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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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/27/2010

Applicant	: James A. Petersen	: DECISION ON REQUEST FOR
Patent Number	: 7572176	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/152,486	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **311** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TRASK BRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

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OFFICE OF PETITIONS

In re Application of	:	
Kyle K. Kirby, et al.	:	
Application No. 11/152,496	:	DECISION GRANTING PETITION
Filed: June 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-5865.1US (03-0257.01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 30, 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 29, 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 regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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Manelii Denison & Selter PLLC
2000 M Street
7th Floor
Washington DC, DC 20036

Mail Date: 04/21/2010

Applicant	: Peter J. G. Schwaller	: DECISION ON REQUEST FOR
Patent Number	: 7648330	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1081** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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	: Jung-Lin Pan	: DECISION ON REQUEST FOR
Patent Number	: 7643843	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,511	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **598** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

In re Application of	:	
Shanahan et al.	:	DECISION ON PETITION
Application No. 11/152,530	:	TO WITHDRAW
Filed: June 14, 2005	:	FROM RECORD
Attorney Docket No. PTS-0010US.D1	:	

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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Cooley Godward Kronish LLP
Attn: Patent Group
Suite 1100
777-6th Street, NW
Washington, DC 20001

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MAY 12 2008

In re Application of	:	
Robert M. Woskow, et al.	:	
Application No. 11/152,542	:	DECISION ON PETITION
Filed: June 14, 2005	:	TO WITHDRAW
Attorney Docket No. FRWL-002/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 7, 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 Wayne O. Stacy on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert M. Woskow**
16801 Seveero Place
Encino, CA 91436

cc: **Harold Rose**
8747 Beverly Boulevard
Los Angeles, CA 90048-1803

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/152,542	06/14/2005	Robert M. Woskow	FRWL-002/00US

CONFIRMATION NO. 9200

POWER OF ATTORNEY NOTICE

OC000000029877770

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 05/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/07/2008.

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

/tswilliams/

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

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Paper No.

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SALIWANCHIK
A PROFESSIONAL ASSOCIATION
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GAINESVILLE, FL 32614-2950

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OFFICE OF PETITIONS

In re Application of	:	
Wironen et al.	:	DECISION ON PETITION
Application No. 11/152,548	:	
Filed: June 14, 2005	:	
Atty Docket No. UF-1598D1	:	

This is in response to the paper styled TRANSMITTAL LETTER filed September 30, 2005, which is properly treated as a petition pursuant to 37 CFR §1.57 to accord a filing date. Applicants request that the above-referenced application be accorded a filing date of June 14, 2005.

Application papers in the above-identified application were deposited on June 14, 2005. However, on July 28, 2005, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants *inter alia* that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants timely filed this petition. In which, applicants do not dispute omitting 4 sheets of drawings, containing all of the drawing figures in the application, on filing. Applicants state that they are now submitting copies of the figures as filed in the parent case (Application No. 08/816,079) pursuant to the requirements for corrective amendment under 37 CFR §1.57(a).

A review of the application as filed reveals that it included a declaration with a claim for priority to the prior application and a preliminarily amendment amending the application to include a specific reference to prior application No. 08/816,079.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains … a claim under 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under … § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;
>
> (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
>
> (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and
>
> (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

Applicants have filed a petition pursuant to paragraph 1.57(a)(3) based on the incorporation of the omitted material from a prior-filed application under 35 U.S.C. 111. The petition includes an amendment, as well as, a copy of the omitted drawings, as required by 1.57(a)(1). The application is pending and prosecution has not closed. The $400 fee set forth in 1.17(f) has been charged to Deposit Account No. 19-0065, as authorized. Applicants have met all requirements for according of a filing date pursuant to this section.

In view thereof, the petition is **GRANTED**.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is thereby forwarded to OIPE for **according of a filing date of June 14, 2005**, using the application papers received in the Office on that date and the four (4) sheets of drawings supplied on September 30, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Application of :
Toyoshi Nogami :
Application No. 11/152,567 : ON PETITION
Filed: June 14, 2005 :
Title: Optical Pickup :

This is a decision on the petition filed August 15, 2005, requesting in effect, the "Notice of Omitted Item(s) in a Nonprovisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of June 14, 2005 including figures 6 and 7.

The application was filed on June 14, 2005. However, on July 14, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 14, 2005 but figures 6 and 7 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figures 6 and 7 as described in the specification were filed on June 14, 2005. In support, the petition is accompanied by a copy of applicant's return postcard which lists " 7 drawings (4 sheets)". The petition is further accompanied by a copy of figures 6 and 7.

Applicant's postcard receipt is prima facie evidence that four sheets of drawings, including figures 6 and 7 were received on June 14, 2005, but figures 6 and 7 as described in the specification 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 6 and 7 as described in the specification were received on June 14, 2005 as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The $400.00 petition fee will be refunded.

Since the original drawings cannot be located in the Office, substitute figures 6 and 7 supplied on August 15, 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 June 14, 2005**, using the drawings supplied on that date and the 1 sheet of drawing which contains figures 6 and 7 supplied on August 15, 2005.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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HERSHKOVITZ & ASSOCIATES
2845 DUKE STREET
ALEXANDRIA VA 22314

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NOV 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Johnson et al.	:	
Application No. 11/152,571	:	ON PETITION
Filed: June 13, 2005	:	
Attorney Docket No. P65333	:	

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

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

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

The application is being referred to Technology Center 3600 for examination in due course.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Christian Huitema, et al.	:	
Application No. 11/152,588	:	DECISION ON PETITION
Filed: June 13, 2005	:	
Attorney Docket No. 167537.07	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 14, 2009. Accordingly, the date of abandonment of this application is April 15, 2009. The Notice of Abandonment was mailed May 4, 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 Terri Williams at (571) 272-2991.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 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
11/152,598	06/13/2005	2131	1000	42P21561	5	17	3

CONFIRMATION NO. 7395

CORRECTED FILING RECEIPT

OC000000016939234

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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)

Subramanyam Chandramouli, Folsom, CA;
Bharat Pathak, Folsom, CA;

Power of Attorney: The patent practitioners associated with Customer Number **45209**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/20/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/152,598

Projected Publication Date: 12/14/2006

Non-Publication Request: No

Early Publication Request: No

Title

Flash array read, erase, and program security

Preliminary Class

713

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

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

NOT GRANTED

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

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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OFFICE OF PETITIONS

In re Application of
Sungho Kang et al.
Application No. 11/152,602
Filed: June 14, 2005
Attorney Docket No: **TECHVIL-214**

ON PETITION

This is a decision on the petition filed December 22, 2008 to withdraw the holding of abandonment. The petition is being treated under 37 CFR 1.181.

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

The application was held abandoned on July 1, 2008, for failure to file a timely response to the Restriction Requirement mailed May 28, 2008. A one month period for reply was set. No response and no extension of time having been filed, accordingly, a Notice of Abandonment was mailed on December 11, 2008.

Petitioner asserts that a response to the Office Action was filed via facsimile transmission on June 25, 2008 but that due to a typographical error, the application serial number was incorrectly identified on the response and thus not properly and timely applied.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, a review of the materials submitted show that other identifiable information was found to be on the papers filed as the response and could therefore have been properly matched. As such, the papers were not matched at the time of receipt. Petitioners argue also that the response was ultimately matched by the USPTO and moved to the correct file, although after the due date.

In view of the evidence submitted, it can be concluded that a response to the Office Action was in fact timely filed.

Accordingly, the Notice of Abandonment mailed December 11, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3744 for a review of the response filed June 25, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Patent, Copyright & Trademark Law Group, LLC
Suite 202
137 South Main Street
Akron, OH 44308

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OFFICE OF PETITIONS

In re Application of	:
Afanasenko	:
Application No. 11/152,619	: UNDER 37 CFR 1.47(b)
Filed: June 15, 2005	:
Atty. Dkt. No.: 1602	:
For: DEVICE FOR TREATMENT OF	:
PATIENTS WITH DISTURBED POSTURE	:
AND MOTOR ACTIVITY	:

This decision is in response to the petition under 37 CFR 1.47(b), filed January 27, 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed June 15, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed August 4, 2005. The Notice required an executed oath or declaration and a surcharge. The Notice set a two month shortened statutory period of time for reply. The Notice of Incomplete Reply mailed October 11, 2005 indicated that the period of time for reply remained as set forth in the Notice mailed August 4, 2005. Accordingly, the instant petition filed January 27, 2006 requires a four month extension of time, rather than the three month extension requested herein. Accordingly, the fee for the additional extension of has been charged to petitioner's deposit account.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the

application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

As to item (1), petitioner has failed to establish that the non-signing inventor cannot be located.

Petitioners are reminded that before it is alleged that an inventor cannot be reached or located, petitioner is required to demonstrate that diligent effort has been exerted to locate the non-signing inventor for presentation of a complete copy of the application papers (specification, including claims, drawings, and oath or declaration).

Petitioner has failed to establish that diligent effort has been made to locate the inventor, referencing merely attempt to contact the inventor at the inventor's last known address and through the inventor's last known employer.

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, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventors may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Any renewed petition should be accompanied by a proper oath or declaration wherein the name, address, residence, and citizenship of the inventor is set forth. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration

may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

As to item (3), the required petition fee due under 37 CFR 1.47 is currently $200.00. As petitioner has submitted $130.00, the remaining fee due ($70.00) has been charged to petitioner's deposit account.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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4199 Kinross Lakes Parkway
Suite 275
RICHFIELD OH 44286

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OFFICE OF PETITIONS

In re Application of
Afanasenko
Application No. 11/152,619
Filed: June 15, 2005
Atty. Dkt. No: 1602CIP

: DECISION ON PETITION

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 15, 2009.

A review of the record reveals that the instant application became abandoned May 11, 2006 for failure to timely submit a proper response to decision on petition mailed March 10, 2006. The petition decision mailed March 10, 2006 set a two month shortened statutory period of time for reply. No petition for extension of time was timely submitted. The Notice of Abandonment mailed April 16, 2008 is correct in that it asserts that the application is abandoned. However, the application became abandoned as a consequence of applicant's failure to timely submit a proper request for reconsideration under 37 CFR 1.47(b) of the petition decision mailed March 10, 2006.

In accordance with 37 CFR 1.181(f), any petition 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. As the Notice of Abandonment was mailed April 16, 2008 and the instant petition was filed July 15, 2009, the instant petition is deemed untimely filed.

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby DISMISSED AS UNTIMELY.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in

late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 04/21/2010

Applicant	: Sean A. Kelly	: DECISION ON REQUEST FOR
Patent Number	: 7669191	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,631	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

In re Application of	:	
Sean S. Kelley et al	:	
Application No. 11/152,648	:	ON PETITION
Filed: June 14, 2005	:	
Attorney Docket No. CE13027R	:	

This is a decision on the petition under 37 CFR 1.182, filed July 20, 2005, which is being treated as a Petition under 37 CFR 1.181, requesting a corrected filing receipt.

The petition is **GRANTED**.

Petitioner states that inventor name Valentin Oprescu-Surcobe and the number of drawings on the Filing Receipt mailed July 8, 2005, are incorrect.

This matter is being referred to the Office of Initial Patent Examination for processing with the inventor name spelled **Valentin Oprescu-Surcobe** and to indicate the number of sheets of drawings as **(4)**, and for the mailing of a corrected Filing Receipt.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MOTOROLA, INC.
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IL01/3RD
SCHAUMBURG IL 60196

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Sean S. Kelley et al	:	
Application No. 11/152,648	:	DECISION GRANTING PETITION
Filed: June 14, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CE13027R	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 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 of January 9, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2618 to consider the amendment submitted on July 23, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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CIRCLE GROUP HOLDINGS, INC.
1011 CAMPUS DRIVE
MUNDELEIN, IL 60060

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JUN 18 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shukla Triveni et al :
Application No. 11/152,655 :
Filed: June 14, 2005 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed May 11, 2006, which set a shortened statutory period for reply of three (3) months. Three-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 12, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 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 1761 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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ADE & COMPANY INC.
2157 Henderson Highway
WINNIPEG MB R2G1P-9 CA CANADA

In re Application of	:	
Cary R. Murphy et al.	:	
Application No. 11/152,663	:	DECISION ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 85570-242 ADB	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 3, 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 April 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2874 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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ADE & COMPANY INC.
2157 HENDERSON HIGHWAY
WINNIPEG MB R2G1P-9 CA CANADA

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AUG 19 2008

In re Application of	:	
Murphy et al.	:	
Application No. 11/152,680	:	ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 85570-232 ADB	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2874 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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450 WEST FOURTH STREET
ROYAL OAK, MI 48067

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Ira W. Bradshaw	:	
Application No. 11/152,683	:	DECISION ON PETITION
Filed: June 13, 2005	:	
Attorney Docket No. 060810.00001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 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 above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 8, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 9, 2005.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

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

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to

avoid abandonment on September 9, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Raymond J. Werner was counsel of record at the time of abandonment, Mr. Werner should explain why this application became abandoned while it was under his control and what efforts he made to further reply with whom this matter was discussed outside of Mr. Werner. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr. Werner and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman

Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK, MI 48067

In re Application of	:	
Ira W. Bradshaw	:	
Application No. 11/152,683	:	ON PETITION
Filed: June 13, 2005	:	
Attorney Docket No. 060810.00001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 17, 2009 to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
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P.O. BOX 272400
FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mark W. Minne et al. :
Application No. 11/152,700 :
Filed: June 14, 2005 :
Attorney Docket Number: 10007268-3 :

This is a decision on the petition filed May 12, 2006, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

A Notice to File Missing Parts was mailed July 20, 2005. A response was due not later than September 20, 2005. No response having been filed and no extensions of time requested, this application became abandoned September 21, 2005. Accordingly, a Notice of Abandonment was mailed March 31, 2006

Petitioner asserts that the Notice to File Missing Parts was never received.

The file record discloses that the Notice to File Missing Parts was mailed to the address of record which is the same address used for mailing the Notice of Abandonment. Petitioner has provided a copy of the docketing records fo this specific application, wherein receipt of the Notice to File Missing Parts, mailed July 20, 2005, would have been filed, had it been received. Petitioner also documents the procedures used for handling of USPTO correspondence in an effort to show that the Notice mailed July 20, 2005 was not received.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Notice to File Missing Parts mailed July 20, 2005, it is apparent that the Notice to File Missing Parts was not received. The evidence submitted corroborates non-receipt of the Notice to File Missing Parts.

In view of the facts set forth in the petition, it is concluded that the Notice to File Missing Parts was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing in view of the oath or declaration filed with the instant petition, in response to the Notice to File Missing Parts mailed July 20, 2005.

Inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100608

DATE : 6/7/10

TO SPE OF : ART UNIT 3626 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/152,724 Patent No.: 7,702,524

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LPE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

☑ **Approved** — **All** changes apply.

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

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

SPE _____ **ART UNIT** 3626

Gerald J. O'Connor
SPE, GAU 3626

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110 VERNON AVENUE
PANAMA CITY FL 32407-7001

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Bottomy	:	
Application No. 11/152,727	:	DECISION ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 96,916	:	

This is a decision on the petition, filed October 2, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed January 11, 2008. The non-final Office action set a three month shortened statutory period for reply. Notice of Abandonment was mailed September 10, 2008.

Petitioner states that a timely reply was mailed via certificate of transmission on April 11, 2008. Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of transmission dated April 11, 2008, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 11, 2008 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on April 11, 2008.

This application is being referred to Technology Center AU 3617 for appropriate action in the normal course of business on the reply received with petition.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTON BOGGS, LLP
2001 ROSS AVENUE, SUITE 3000
DALLAS TX 75201

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of

WADDELL, Loy A. et al.
Application No. 11/152,730
Filed: June 14, 2005
Attorney Docket No. **023218.0101PTUS**

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 June 12, 2009.

The request is **NOT APPROVED**.

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

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **WATER ENGINEERING TECHNOLOGIES, INC.**
710 5TH AVENUE
MANSFIELD TX 760603

UNITED STATES PATENT AND TRADEMARK OFFICE

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LATIMER, MAYBERRY & MATTHEWS IP LAW, LLP
13873 PARK CENTER ROAD
SUITE 106
HERNDON VA 20171

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JUL 20 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David Ho et al. :
Application No. 11/152,774 :
Filed: June 15, 2005 :
Attorney Docket No. CLPH-106 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 10, 2009, to revive the above-identified application.

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

A Final Office Action was mailed October 29, 2008 setting a three month period for reply. In response thereof, on March 27, 2009, petitioners filed a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS). The application became abandoned by operation of law for failure to file a proper response to the Final Office Action. The IDS, while a proper submission as required by 37 CFR 1.114 cannot serve as a response to place the application in condition for allowance. Thus, the application became abandoned for failure to file a proper response to the Final Office Action. Therefore, no response having been filed to the Final Office Action, the application became abandoned. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted an amendment as the submission required under 37 CFR 1.114.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The application is being forwarded to Technology Center 1651 for processing of the RCE filed March 27, 2009 and the amendment filed with the instant petition.

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

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Paper No.

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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APR 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,553,849	: DECISION ON REQUEST
Bjőrk et al.	: FOR
Issue Date: 06/30/2009	: RECONSIDERATION OF
Application No. 11/152,777	: PATENT TERM ADJUSTMENT
Filed: 06/15/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
BJORK8	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 31, 2009, which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-four (934) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-four (934) 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 **nine hundred thirty-four (934)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,553,849 B2

DATED : **June 30, 2009** **DRAFT**

INVENTOR(S) : Bjork 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 554 days.

Delete the phrase "by 554 days" and insert – by 934 days--

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Gregory Joseph Badros et al	:	
Application No. 11/152,781	:	DECISION ON PETITION
Filed: June 15, 2005	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 16113-656001	:	

This is a decision on the petition under 37 CFR 1.313(c), filed September 29, 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 September 8, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2166 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Darrell Maitland Poole	: DECISION ON REQUEST FOR
Patent Number	: 7618385	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **920** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON DC 20036

In re Patent No. 7,208,774	:	
Issued: April 24, 2007	:	
Application No. 11/152,789	:	ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 033035 M 179	:	

This is a decision on the petition under 37 CFR 1.182, filed September 23, 2009, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The file record discloses that the instant application matured into U.S. Patent No. 7,208,774 on April 24, 2007. However, petitioner contends that the patent was never received and it is presumed lost in the mail.

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]

In the absence of any irregularity there is a strong presumption that the communications was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communications was not in fact received.

The petition is accompanied by the evidence required to establish nonreceipt of the original Letters patent. Accordingly, Publishing Division is directed to issue a duplicate Letters Patent. Further, the petition fee of $400.00 is unnecessary and will be refunded to petitioner's credit card in due course.

---

[1] See MPEP 711.03(c) and notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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OFFICE OF PETITIONS

In re Application of
James G. Masters et al.
Application No. 11/152,803
Filed: June 14, 2005
Attorney Docket No: 6800-01

ON PETITION

This is a decision on the petition filed September 19, 2005, in response to the Notice To File Corrected Application Papers mailed July 14, 2005. The petition is treated under 37 CFR 1.53.

A Notice To File Corrected Application Papers mailed July 14, 2005 indicated that the application had been accorded a filing date of June 14, 2005 but that Pages 1-3 of the specification appeared to have been omitted.

Petitioner asserts that Pages 1-3 of the specification were among the papers filed on June 14, 2005, and with the petition, submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included 17 pages of specification and bears a United States Patent and Trademark Office date-stamp of June 14, 2005. While only 14 pages of specification is of record, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

The "Notice" was improperly mailed and is withdrawn. Given the basis for granting the petition, the petition fee in the amount of $400.00 will be credited to deposit account no. 03-2455. However, since the response to the Notice to File Corrected Application Papers was received after September 14, 2005, but without a certificate of mail pursuant to 37 CFR 1.8, deposit account no. 03-2455 will be charged in the amount of $120.00 for a one month extension of time.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on June 14, 2005 and the three sheets of specification (pages 1-3) submitted on petition September 19, 2005.

Telephone inquiries regarding 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

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OFFICE OF PETITIONS

In re Application of	:	
Stephen J. Faris, III et al.	:	
Application No. 11/152,809	:	DECISION ON PETITION
Filed: June 14, 2005	:	TO WITHDRAW
Attorney Docket No. 15028-003001	:	FROM RECORD
	:	

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, 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 Lawrence K. Kolodney on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the first signing inventor at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted. If an assignee has interest in an application, then compliance with 37 CFR 3.73(b) must be satisfied.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Stephen J. Faris, III
1448 Timber Ridge Circle
Nashville, TN 37211

cc: HealthGate Data Corp.
c/o altThera Health, Inc.
30 Chauncy Street
Boston, MA 02111

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/152,809	06/14/2005	Stephen J. Faris III	15028-003001

CONFIRMATION NO. 6850

POWER OF ATTORNEY NOTICE

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

OC000000035274591

Date Mailed: 04/01/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2009.

- 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.

/kainabinet/

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

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Thelen, Reid, Brown, Raysman & Steiner, LLP
P.O. Box 1510
New York, NY 10150-1510

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OFFICE OF PETITIONS

In re Application of	:	
Gili Raanan et al.	:	
Application No. 11/152,821	:	DECISION ON PETITION
Filed: June 13, 2005	:	
Attorney Docket No. 6019/5	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 24, 2007. A Notice of Abandonment was mailed on May 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1,500.00, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2857 for appropriate action by the Examiner in the normal course of business on the reply received September 17, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Thelen, Reid, Brown, Raysman & Steiner, LLP
875 Third Avenue
New York, NY 10022

SPE: E. Lefkowitz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/8/07

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/152827 Patent No.: 7152462

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.

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

Comments: ALLOWED CLAIMS 5-9 MISSING FROM PATENT

SPE

2855
Art Unit

JM

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REEXAM UNIT

Edward C. Kwok (For Patent Owner)
MACPHERSON KWOK CHEN & HEID LLP
1762 Technology Drive, Suite 226
San Jose CA 95110

Donald E. Daybell (For Third Party Requester)
ORRICK HERRINGTON & SUTCLIFFE LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614

In re Reissue Application of Karol Doktor Application No.: 11/152,833 Filed: June 14, 2005 For: U.S. Patent No. 5,617,567	DECISION, *SUA SPONTE*, TO MERGE REISSUE AND REEXAMINATION PROCEEDINGS
In re Karol Doktor Reexamination Proceeding Control No.: 90/007,705 Filed: September 1, 2005 For: U.S. Patent No.: 5,617,567	

The above-captioned reissue application 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. 5,617,567 issued on April 1, 1997.

2. An application for reissue, assigned application No. 11/152,833, was filed by the patent owner on June 14, 2005.

3. Notice of the filing of the reissue application was published in the *Official Gazette* on July 26, 2005.

4. A request for reexamination, assigned control No. 90/007,705 (the'7705 reexamination proceeding),, was filed by a third party requester on September 1, 2005.

5. Reexamination was ordered for the '7705 reexamination proceeding on

September 30, 2005.

6. A patent owner's statement under 37 CFR 1.530 has not been received in the '7705 reexamination proceeding.

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. 11/152,833 and reexamination control No. 90/007,705 are currently pending. Since the order to reexamine has been mailed in the reexamination proceeding, 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 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 all proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and the 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. The patent owner is required to maintain identical amendments in the reissue and reexamination files 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).

2. A review of the reexamination file for the proceeding of reexamination control No. 90/007,705 shows that original patent claims 1-18 are present and no claims are added by amendment. A review of reissue application No. 11/152,833 shows that original patent claims 1-18 are present and no claims are added by amendment. Accordingly, the claims are identical in both proceedings.

3. It is noted, however, that the first paragraph of the specification is amended in the reissue application, while not so for the reexamination proceeding. An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in both cases, specifically, the above-captioned reissue and reexamination proceedings. The response to the requirement must be limited to placing the same amendments in all cases, and patent owner must not address any issue of patentability in the housekeeping amendment.

III. Conduct of the Merged Reissue Application Examination and Reexamination Proceedings

1. After the appropriate housekeeping amendment (see Part II above) is received, or after the time for same expires, the examiner should promptly prepare an Office action for the merged proceeding.

2. In the event that a housekeeping amendment is not timely submitted, the disclosures in both proceedings should be objected to as being inconsistent for the same underlying patent.

3. 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 of 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).

4. Each Office action issued by the examiner will take the form of a single action that jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data for all of the cases, i.e, the reissue application and the reexamination proceeding, and each action will be entered into the file history for both files (which will be maintained as separate files).

5. 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 responses must be served on the requester, who will also be sent copies of Office actions.

6. 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 the guidelines of MPEP 1453. It is to be noted that 37 CFR 1.121 does not 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.

7. Where a paper is filed which requires payment of a fee (e.g., petition 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 appellant brief, even though the brief relates to merged multiple proceedings and copies must be filed (as pointed out above) for each file in the merged proceeding.

8. Upon return of the present merged proceeding to the examiner, the examiner will review the files to insure that each file contains identical citations of prior patents and printed publications, and will cite such documents as are necessary as part of the next action in order to place the files in that condition.

9. 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.

10. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be concluded as follows. The reissue application will be held abandoned, and the merger will be dissolved as to the reissue application. With respect to the reexamination proceeding, the USPTO Director will proceed to issue a reexamination certificate under 37 CFR 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings. Thus, any grounds of rejection that are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any

new grounds of rejection that are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding as to the reissue application. 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 under reexamination pursuant to 37 CFR 1.552(c).

11. 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 as to the reissue application, 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. 11/152,833 and reexamination control No. 90/007,705 are hereby merged into a single proceeding.

2. Pursuant to Part II of this decision, a housekeeping amendment is required within **ONE MONTH** of this decision, placing the same amendments in all (both) cases of the present merged proceeding.

3. Jurisdiction over the reissue and reexamination proceedings is hereby transferred to the examiner via the Director of Technology Center 2100. The examiner should not issue an Office action for the present merged proceeding of the reissue and reexamination proceedings until after the earlier of (a) the submission of the housekeeping amendment to place the same amendments in both cases, or (b) the expiration of the ONE MONTH period (from the mailing of this decision) set in part 2 of the "Conclusion."

4. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

5. Telephone inquiries related to this decision should be directed to Anton W. Fetting, Senior Legal Advisor, at (571) 272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

December 1, 2005
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Edward C. Kwok
MACPHERSON KWOK CHEN & HEID LLP
1762 Technology Drive, Suite 226
San Jose CA 95110

(For Patent Owner)

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DEC 05 2005
REEXAM UNIT

Donald E. Daybell
ORRICK HERRINGTON & SUTCLIFFE LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614

(For Third Party Requester)

In re Reissue Application of Karol Doktor Application No.: 11/152,835 Filed: June 14, 2005 For: U.S. Patent No. 5,826,259	DECISION, *SUA SPONTE*, TO MERGE REISSUE AND REEXAMINATION PROCEEDINGS
In re Karol Doktor Reexamination Proceeding Control No.: 90/007,707 Filed: September 1, 2005 For: U.S. Patent No.: 5,826,259	

The above-captioned reissue application 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. 5,826,259 issued on October 20, 1998.

2. An application for reissue, assigned application No. 11/152,835, was filed by the patent owner on June 14, 2005.

3. Notice of the filing of the reissue application was published in the *Official Gazette* on July 26, 2005.

4. A request for reexamination, assigned control No. 90/007,707 (the'7707

reexamination proceeding), was filed by a third party requester on September 1, 2005.

5. Reexamination was ordered for the '7707 reexamination proceeding on September 30, 2005.

A patent owner's statement under 37 CFR 1.530 has not been received in the '7707 reexamination proceeding.

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. 11/152,835 and reexamination control No. 90/007,707 are currently pending. Since the order to reexamine has been mailed in the reexamination proceeding, 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 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 all proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and the 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. The patent owner is required to maintain identical amendments in the reissue and reexamination files 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).

2. A review of the reexamination file for the proceeding of reexamination control No. 90/007,707 shows that original patent claims 1-18 are present and no claims are added by amendment. A review of reissue application No. 11/152,835 shows that original patent claims 1-18 are present and no claims are added by amendment. Accordingly, the claims are identical in both proceedings.

3. It is noted, however, that the first paragraph of the specification is amended in the reissue application, while not so for the reexamination proceeding. An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in both cases, specifically, the above-captioned reissue and reexamination proceedings. The response to the requirement must be limited to placing the same amendments in all cases, and patent owner must not address any issue of patentability in the housekeeping amendment.

III. Conduct of the Merged Reissue Application Examination and Reexamination Proceedings

1. After the appropriate housekeeping amendment (see Part II above) is received, or after the time for same expires, the examiner should promptly prepare an Office action for the merged proceeding.

2. In the event that a housekeeping amendment is not timely submitted, the disclosures in both proceedings should be objected to as being inconsistent for the same underlying patent.

3. 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 of 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).

4. Each Office action issued by the examiner will take the form of a single action that jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data for all of the cases, i.e, the reissue application and the reexamination proceeding, and each action will be entered into the file history for both files (which will be maintained as separate files).

5. 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 responses must be served on the requester, who will also be sent copies of Office actions.

6. 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 the guidelines of MPEP 1453. It is to be noted that 37 CFR 1.121 does not 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.

7. Where a paper is filed which requires payment of a fee (e.g., petition 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 appellant brief, even though the brief relates to merged multiple proceedings and copies must be filed (as pointed out above) for each file in the merged proceeding.

8. Upon return of the present merged proceeding to the examiner, the examiner will review the files to insure that each file contains identical citations of prior patents and printed publications, and will cite such documents as are necessary as part of the next action in order to place the files in that condition.

9. 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.

10. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be concluded as follows. The reissue application will be held abandoned, and the merger will be dissolved as to the reissue application. With respect to the reexamination proceeding, the Director will proceed to issue a reexamination certificate under 37 CFR 1.570 in accordance with the last action of the Office, unless further action is clearly

needed as a result of the difference in rules relating to reexamination and reissue proceedings. Thus, any grounds of rejection that are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection that are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding as to the reissue application. 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 under reexamination pursuant to 37 CFR 1.552(c).

11. 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 as to the reissue application, 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. 11/152,835 and reexamination control No. 90/007,707 are hereby merged into a single proceeding.

2. Pursuant to Part II of this decision, a housekeeping amendment is required within **ONE MONTH** of this decision, placing the same amendments in all (both) cases of the present merged proceeding.

3. Jurisdiction over the reissue and reexamination proceedings is hereby transferred to the examiner via the Director of Technology Center 2100. The examiner should not issue an Office action for the present merged proceeding of the reissue and reexamination proceedings until after the earlier of (a) the submission of the housekeeping amendment to place the same amendments in both cases, or (b) the expiration of the ONE MONTH period (from the mailing of this decision) set in part 2 of the "Conclusion."

4. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

5. Telephone inquiries related to this decision should be directed to Anton W. Fetting, Senior Legal Advisor, at (571) 272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

December 2, 2005
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HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS, MO 63105

Mail Date: 04/21/2010

Applicant	: Wing Ling Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7589505	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,847	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
PROCTOR JR., James A. et al.
Application No. 11/152,858
Filed: June 14, 2005
Attorney Docket No. **2479.2118-015**

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 David J. Thibodeau, Jr. on behalf of all attorneys of record who are associated with customer No. 21005. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **JAMES A. PROCTOR, JR.**
258 SEA VIEW STREET
MELBOURNE BEACH, FLORIDA 32951

cc: **VOLPE AND KOENIG, P.C.**
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

In re Application of

Bruce D. Buck
Application No. 11/152,865
Filed: June 14, 2005
Attorney Docket No. DYNA-12

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 20, 2006.

The request is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***termination of attorney-client relationship***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams
for
Amelia Au
Petitions Examiner
Office of Petitions

cc: **Dynaflex, Inc.**
1735 West 18th Street
Indianapolis, IN 46202

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STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE, KY 40202-3352

Mail Date: 04/21/2010

Applicant	: Steven C. Koenig	: DECISION ON REQUEST FOR
Patent Number	: 7572217	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,872	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **640** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
Sivakumar Ramakrishnan, et. al.	:	
Application No. 11/152,876	:	ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 1738.008US1	:	

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

The application became abandoned for failure to file a timely reply to the Notice of Fee Deficiency mailed August 27, 2007.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. However, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. 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 $600 of claim fees; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney filed on September 5, 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 2825 for further processing.

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

AnSmith

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/152,876	06/15/2005	Sivakumar Ramakrishnan	A03212.70666US00

CONFIRMATION NO. 7040

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

POA ACCEPTANCE LETTER

OC000000033009512

Date Mailed: 11/07/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2008.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 5, 2010

TO SPE OF : ART UNIT 2825 - SPE Jack Chiang.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/152,876 Patent No.: 7,694,257 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

Should the request to add claim 27 as requested by applicant be approved?
See COCIN dated 04-20-2010

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.

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

Comments: Added claim 27 is approved because the added claim 27 is an omitted original claim 7 filed 07/17/09 from the listing in Index of Claims and Issue Classification. V.S.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Jack Chiang/ SPE 2825

SPE Art Unit

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ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Patent No. 7,541,042 Issued: June 2, 2009 Application No. 11/152,894 Filed: June 14, 2005 Attorney Docket No. 19374-508DIV2CON	: DECISION ON APPLICATION : FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)" filed August 3, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred twenty (220) days to five hundred seventy-three (573) days.

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

On June 2, 2009, the above-identified application matured into US Patent No. 7,541,042 with a patent term adjustment of 220 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 573 days, which includes 353 days of patent term adjustment due to exceeding three year pendency and 394 days due to USPTO delay in prosecution."

The 353-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on June 14, 2005, and the patent having been issued on June 2, 2009, three years and 353 days later. Patentees assert that in addition to this 353-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 394 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 174 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (353 days) and the period of Examination Delay (394 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 747 days, which is the sum of the period of Three Year Delay (353 days) and the period of Examination Delay (394 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 573 days (353 + 394 reduced by 0 overlap – 174 (applicant delay)).

The Office agrees that as of the issuance of the patent on June 2, 2009, the application was pending three years and 353 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 394 days is correct. At issue is whether patentees should accrue 353 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 394 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 394 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June

21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

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

Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, June 14, 2005, to the date the patent issued on June 2, 2009. Prior to the issuance of the patent, 394 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 353 days for Office delay in issuing the patent overlap with the 394 days of Office delay. During that time, the issuance of the patent was delayed by 394 days, not 394 + 353 days. The Office took 14 months and 394 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 353 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 353 days. The Office did not delay 394 days and then an additional 353 days. Accordingly, 394 days of patent term adjustment (not 394 and 353 days) was properly entered since the period of delay of 353 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 394 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 394

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

days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 353 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b).

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

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

/Kery A. Fries/

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

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

MAILED

MAR 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,541,042	: DECISION ON REQUEST
Issued: June 2, 2009	: FOR RECONSIDERATION
Application No. 11/152,894	: OF PATENT TERM ADJUSTMENT
Filed: June 14, 2005	: AND
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
19374-508DIV2CON	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §l.705(d) filed on November 10, 2009, requesting that the patent term adjustment be corrected from 220 to 573 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by five hundred seventy-three (573) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred seventy-three (573)** days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,541,042 B2

DATED : June 2, 2009

INVENTOR(S) : Sean Farmer

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 (220) days

Delete the phrase "by 220 days" and insert – by 573 days--

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Paper No.

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

COPY MAILED

MAY 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Timothy Kraus and	:	
Walter Schlesser	:	DECISION ON PETITION
Application No. 11/152,908	:	
Filed: June 15, 2005	:	
Atty Docket No. 16391-US	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182 to Correct Order of Inventorship, filed February 23, 2006.

The petition is **GRANTED**.

The order of the names of the inventors has been changed as follows:

1. Timothy James Kraus
2. Walter Mark Schlesser

A filing receipt reflecting this change is enclosed.

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: Filing Receipt

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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
11/152,908	06/15/2005	3671	1000	16391-US	2	9	1

CONFIRMATION NO. 7295

CORRECTED FILING RECEIPT

OC000000018915892

30689
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

Date Mailed: 05/23/2006

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)

Timothy James Kraus, Hedrick, IA;
Walter Mark Schlesser, Ottumwa, IA;

Assignment For Published Patent Application

Deere & Company, a Delaware corporation

Power of Attorney:

Jimmie Oaks--24987

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/152,908

Projected Publication Date: 12/21/2006

Non-Publication Request: No

Early Publication Request: No

Title

Crop re-hydration system carried by a large square baler

Preliminary Class

056

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

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Paper No.

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas et al.	:	DECISION ON PETITION
Application No. 11/152,917	:	
Filed: June 15, 2005	:	
Atty Docket No. 29805.125.2	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 28, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed July 16, 2008. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned October 17, 2008. A courtesy Notice of Abandonment was mailed on January 22, 2009.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 3753 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed January 28, 2009.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: John E. Thomas	: DECISION ON REQUEST FOR
Patent Number	: 7597861	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,940	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: 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.

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

Mail Date: 04/21/2010

Applicant	: Youn-Gyoung Chang	: DECISION ON REQUEST FOR
Patent Number	: 7592971	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,953	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1135** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

COPY MAILED
SEP 24 2008

In re Application of	:	
Maples et al.	:	
Application No. 11/152,959	:	DECISION ON PETITION
Filed: June 14, 2005	:	TO WITHDRAW
Attorney Docket No. 045471-1050	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 27, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on October 7, 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 correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/152,960	06/15/2005	2818	1250	12581-5178	19	25	3

CONFIRMATION NO. 6433

CORRECTED FILING RECEIPT

OC000000016856857

00757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 08/24/2005

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)

You Jin Kim, Seongnam-si, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

LG PHILIPS LCD CO., LTD.

Power of Attorney: The patent practitioners associated with Customer Number **00757**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA P2004-100071 12/01/2004

If Required, Foreign Filing License Granted: 07/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/152,960

Projected Publication Date: 06/01/2006

Non-Publication Request: No

Early Publication Request: No

Title

Thin film transistor substrate and fabricating method thereof

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Joseph E. Harrison	: DECISION ON REQUEST FOR
Patent Number	: 7584965	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/152,961	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **351** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WILMERHALE/BOSTON
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BOSTON MA 02109

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JUL 29 2008

In re Application of	:	
LO, Kevin H. et al.	:	
Application No. 11/152,964	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. **0291427.00124US1**	:	FROM RECORD
	:	

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 08, 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 Peter Dichiara on behalf of all attorneys of record who are associated with customer No. 23483. All attorneys/agents associated with the Customer Number 23483 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **KEVIN LO**
K5 SYSTEMS, INC.
2500 E. COLORADO BOULEVARD
SUITE 250
PASADENA CA 91107

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
LO, Kevin H. et al.	:	
Application No. 11/152,964	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. **0291427.00124US1**	:	FROM RECORD
	:	

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, 2008.

The request is **MOOT**.

A review of the file record indicates that the Withdraw of attorney filed previously on July 08, 2008 has been approved. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not approved.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **KEVIN LO**
K5 SYSTEMS, INC.
2500 E. COLORADO BOULEVARD
SUITE 250
PASADENA CA 91107

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OFFICE OF PETITIONS

In re Application of

LO, Kevin H. et al.
Application No. 11/152,966
Filed: June 15, 2005
Attorney Docket No. **0291427.00122US2**

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 08, 2008 and re-submitted on July 29, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Peter Dichiara. on behalf of all attorneys of record who are associated with customer No. 23483. All attorneys/agents associated with the Customer Number 23483 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Kevin Lo 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: **KEVIN LO**
K5 SYSTEMS, INC.
2500 E. COLORADO BLVD.
SUITE 250
PASADENA CA 91107

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MARCUS SIMON, ESQ.
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101

In re Application of	:
Terry R. Lee et al	:
Application No. 11/152,978	: DECISION GRANTING PETITION
Filed: June 14, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 501181.02	:

This is a decision on the petition, filed April 20, 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 April 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\152978.wpd

---

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

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

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In re Application of Bellinger-Kawahara et al. Application No. 11/153,010 Filed: June 14, 2005 Attorney Docket No. 045471-1000	: : : : : :	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 27, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on October 3, 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 correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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George R. Schultz
Schultz & Associates, P.C.
One Lincoln Centre
5400 LBJ Freeway, Suite 1200
Dallas TX 75240

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AUG 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Douglas K. Matchett et al.	:	
Application No. 11/153,034	:	DECISION ON PETITION
Filed: June 14, 2005	:	
Attorney Docket No. 44601.0213	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 3, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 3, 2008. Accordingly, the date of abandonment of this application is September 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 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 Ron Abelson at (571) 272-3165 or the undersigned at (571) 272-7099 .

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

David Bucci
Petitions Examiner
Office of Petitions

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JUL 23 2008

In re Application of	:	
Kevin H. LO, et al	:	
Application No. 11/153,049	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. 0291427.00123US1		FROM RECORD
	:	

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 8, 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 the attorneys of record were not appointed by Customer Number 08-0219, as indicated.

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: KEVIN LO
K5 SYSTEMS, INC.,
2500 E. COLORADO BOULEVARD,
SUITE 250
PASADENA, CA 91107

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AUG 18 2008

In re Application of	:	
Kevin H. **LO**, et al	:	
Application No. 11/153,049	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. 0291427.00123US1	:	FROM RECORD
	:	

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, 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 Peter M. Dichiara on behalf of all attorneys of record associated with Customer Number 23483.

All attorneys of record associated with Customer Number 23483 have been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KEVIN LO
K5 SYSTEMS, INC.,
2500 E. COLORADO BOULEVARD,
SUITE 250
PASADENA, CA 91107

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JAN 19 2010

OFFICE OF PETITIONS

Paper No.

JAMES D. WELCH
10328 PINEHURST AVE.
OMAHA NE 68124

In re Application of	:	
Johs et al.	:	
Application No. 11/153,052	:	DECISION ON PETITION
Filed: June 15, 2005	:	PURSUANT TO
Title: METHOD OF DETERMINING	:	37 C.F.R. § 1.137(B)
SUBSTRATE ETCH DEPTH	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 18, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 2, 2009, 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 June 3, 2009. A notice of abandonment was mailed on September 10, 2009, subsequent to the filing of this petition.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on September 18, 2009 can be processed in due course.

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.**

Petitioner has indicated that he submitted a response to the non-final Office action on March 20, 2009, but placed the wrong serial number on the submission. In due course, the submission of March 20, 2009 will be moved from the electronic file that is associated with application number 11/253,052 and moved into the electronic file that is associated with the present application.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

---

1 See Rule 1.137(d).

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

concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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Michael A. Guth
2-2905 East Cliff Drive
Santa Cruz, CA 95062

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Laurence Svennungsen Smith et al. :
Application No. 11/153,063 :
Filed: June 15, 2005 :
Attorney Docket No. 1047-US :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 17, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 18, 2008. A Notice of Abandonment was mailed on September 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $810, 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 3644 for appropriate action by the Examiner in the normal course of business on the reply received February 2, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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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.
11/153,073	06/15/2005	Kenneth James Faase	200402984-1	8591

7590 04/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
MA, CALVIN

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
04/21/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/21/2008 DTERRY
06/17/2005 MBIZUNES 00000025 082025 11153073
02 FC:1111 500.00 CR
04 FC:1201 1200.00 CR
05 FC:1202 800.00 CR

FORM PET651G (Rev. 08/07)

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
MADISON, WI 53703

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Phillip D. **Warren**	:	
Application No. 11/153,077	:	DECISION ON PETITION
Filed: June 14, 2005	:	
Attorney Docket No. 26411-0023	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-final Office action mailed August 07, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 08, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770.00 and (3) a statement of unintentional delay. Accordingly, the reply to the Non-final Office action of August 07, 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 appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received.

David A. Bucci
Petitions Examiner
Office of Petitions

cc:
RHETT S. WHITE
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/153,096	06/15/2005	Frederick J. Berg	DP-313421 (60408-653)

CONFIRMATION NO.
8073

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

Date Mailed: November 18, 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. Denham
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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

Mail Date: 04/20/2010

Applicant	: Larry Masinter	: DECISION ON REQUEST FOR
Patent Number	: 7577689	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **275** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Nora Sabina Radu	: DECISION ON REQUEST FOR
Patent Number	: 7575816	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

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APR 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Gleasman et al.	:	
Application No.: 11/153112	:	ON PETITION
Filing or 371(c) Date: 06/15/2005	:	
Attorney Docket Number: RTOR-28	:	

This is a decision on the petition under 37 CFR 1.182, filed on January 29, 2007, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. James Y. Gleasman
2. Kieth E. Gleasman
3. Matthew R. Wrona

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/153,112	06/15/2005	3746	1175	RTOR-28	35	6

CONFIRMATION NO. 8081

CORRECTED FILING RECEIPT

OC000000023522096

38512
MORTON A. POLSTER
BROWN & MICHAELS, P.C.
400 M & T BANK BUILDING
118 N. TIOGA STREET
ITHACA, NY 14850

Date Mailed: 04/24/2007

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)

James Y. Gleasman, Rochester, NY;
Keith E. Gleasman, Fairport, NY;
Matthew R. Wrona, Fairport, NY;

Assignment For Published Patent Application

Torvec, Inc., Pittsford, NY

Power of Attorney: The patent practitioners associated with Customer Number **020808**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/153,112

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Orbital transmission with geared overdrive

Preliminary Class

417

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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Polster, Lieder, Woodruff & Lucchesi
12412 Powerscourt Drive, Suite 200
St. Louis, MO 63131-3615

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
James Clark	:	
Application No. 11/153,118	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. CLAJ 9855US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2008.

The request is **moot because a revocation of power of attorney has been previously filed**.

A review of the file record indicates that the power of attorney to David L. Howard and all attorneys/agents associated with customer number 01688 has been revoked by the applicant of the patent application on September 30, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James Clark
8276 Albin Avenue
St. Louis, MO 63114

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James Clark
8276 Albin Avenue
St. Louis MO 63114

In re Application of:
CLARK, JAMES
Serial No.: 11/153,118
Filed: June 15, 2005
Docket: CLAJ 9855US
Title: SYSTEM AND METHOD FOR OUT OF AREA BEHAVIOR MODIFICATION IN SCHOOLS

8/26/09

DECISION ON PETITION

This is a decision on the petition received on August 18, 2009, seeking to suspend Office action on the above-identified application for a period of two months. This petition is being considered pursuant to 37 CFR § 1.103(a)[1]. The requisite petition fee $200.00 under 37 CFR § 1.17(g) was not paid.

The petition is dismissed.

On August 18, 2009, petitioner filed the current petition to suspend office action in order to investigate misinformation, obtain additional time to correct errors in the patent application and obtain copyrights.

It is noted there is an outstanding Office action mailed on August 19, 2009. Since the applicant has not paid the requisite fee under 37 CFR § 1.17(g), the requested suspension will not be granted. In addition, the Office will not suspend action if a reply by applicant to an Office action is outstanding. The applicant must file a response to the final Office action of January 21, 2009 within the statutory period to respond.

The application remains in active status and is being forwarded to the Supervisory Patent Examiner of Art Unit 3715 awaiting the applicant's response to the non-final Office action of August 19, 2009. As stated in 37CFR § 1.181(f): The mere filing of a petition will not stay any period for reply that may by running against the application, nor act as a stay of other proceedings.

---

[1] 37 CFR 1.103. Suspension of action by the Office. (a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include: (1) A showing of good and sufficient cause for suspension of action; and (2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Robert Olszewski, Director
Technology Center 3700

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60 STATE STREET
BOSTON MA 02109

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
LO, Kevin H. et al.	:	
Application No. 11/153,120	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. **291427.125 US1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 08, 2008 and resubmitted July 29, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Peter M. Dichiara on behalf of all attorneys of record who are associated with customer No. 23483. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Kevin H. Lo 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 R. Eason
Paralegal Specialist
Office of Petitions

cc: **KEVIN LO**
K5 SYSTEMS, INC.
2500 E. COLORADO BOULEVARD
SUITE 250
PASADENA, CA 91107

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Joel M. WasDyke	: DECISION ON REQUEST FOR
Patent Number	: 7575584	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,131	: OF WYETH
Filed	: 06/15/2005	:
		:

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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MAR 2 7 2009

OFFICE OF PETITIONS

RHODIA INC.
8 CEDAR BROOK DRIVE
CN 7500
CRANBURY, NJ 08512

In re Application of	:	
Scott Richard JACKSON, et al	:	
Application No. 11/153,157	:	DECISION ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. RD 04017	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 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 May 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 June 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1620; and (3) the required 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 on February 19, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account 02-4800.

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 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.

Thurman Page
Petitions Examiner
Office of Petitions

cc: GARY D. MANGELS
1737 KING STREET, SUITE 500
ALEXANDRIA, VA 22314

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

Law Office of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron OH 44308

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Randy W. Sulzener :
Application No. 11/153,169 : DECISION ON PETITION
Filed: June 16, 2005 :
Attorney Docket No.: 1555 :
Title: GOLF SWING TRAINING :
APPARATUS AND METHOD FOR USING THE :
SAME :

This is a decision on the petition filed July 21, 2005, requesting that the above-identified application, including page 12 of the specification, be accorded a filing date of June 16, 2005 as part of the original disclosure.

The application was deposited on June 16, 2005. However, on July 13, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that page 12 of the specification appeared to have been omitted. The notice set a two-month period of reply.

In response, on July 21, 2005, applicants filed the present petition. The petition is further accompanied by a copy of page 12 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "30 pages of specification" in the United States Patent and Trademark Office (Office) on June 16, 2005. Applicants request that page 12 of the specification be accorded a filing date of June 16, 2005.

It is noted that 29 pages of specification have been located in the electronic file.

Upon review of the record, the above-mentioned page has not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 16, 2005

included page 12 of the specification, and this sheet was subsequently misplaced in the Office.

Therefore, the application, including page 12 of the specification, was complete on filing and entitled to a filing date of June 16, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed July 13, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

OIPE will be advised to process the application with a filing date of June 16, 2005, using the original application papers filed on that date, as well as page 12 of the specification submitted on July 21, 2005, and for noting in Office records that this page was present on filing.

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

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

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Lexmark International, Inc.
Intellectual Property Law Department
740 West New Circle Road
Bldg. 082-1
Lexington, KY 40550-0999

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JUL 16 2008

In re Application of	:	
Steven R. Komplin et al.	:	
Application No. 11/153,179	:	ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 2005-0111.02	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2007. A Notice of Abandonment was mailed on April 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 an amendment after non-final, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly the amendment is accepted as being unintentionally delayed.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

This application is being referred to Technology Center AU 2861 for appropriate action by the Examiner in the normal course of business on the reply received April 29, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: David E. LaRose
P.O. Box 1871
Knoxville, TN 37901

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 04/20/2010

Applicant	: Steven R. Komplin	: DECISION ON REQUEST FOR
Patent Number	: 7591549	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **656** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/153,195	06/15/2005	Barbara Haviland Minor	FL1123USNA	8540

7590 12/10/2007
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER
KHAN, AMINA S

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
12/10/2007	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.

Ricardo Clemons
Patent Publication Branch
Office of Data Management

04 FC:1202 600.00 CR

02 FC:1111 500.00 CR
05 FC:1203 360.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/153,195	06/15/2005	Barbara Haviland Minor	FL1123USNA	8540

23906 7590 12/11/2007
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER
KHAN, AMINA S

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
12/11/2007	ELECTRONIC

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

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

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

PTO-Legal.PRC@usa.dupont.com

Notice of Abandonment	Application No.	Applicant(s)	
	11/153,195	MINOR, BARBARA HAVILAND	
	Examiner	Art Unit	
	Khan, Amina	1796	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

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

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

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

Mail Date: 04/21/2010

Applicant	: So-Hyun Kim	: DECISION ON REQUEST FOR
Patent Number	: 7593732	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,209	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **547** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BAKER AND BOTTS LLP
2001 ROSS AVE
SUITE 600
DALLAS TX 75201-2980

COPY MAILED

DEC 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Douglas L. Peckover, Benjamin L.	:	DECISION ACCORDING STATUS
Wright	:	UNDER 37 CFR 1.47(a)
Application No. 11/153,224	:	
Filed: June 15, 2005	:	
Attorney Docket No. 076891.0130		

This is in response to the petition under 37 CFR 1.47(a), filed October 12, 2005.

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

Petitioner has shown that non-signing inventor Douglas L. Peckover has refused to join in the filing of the application.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 3621 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DOUGLAS L PECKOVER
7122 BROOKSHIRE CIRCLE
DALLAS TX 75230

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DEC 07 2005

OFFICE OF PETITIONS

In re Application of :
Douglas L. Peckover, Benjamin L. :
Wright :
Application No. 11/153,224 :
Filed: June 15, 2005 : LETTER
Title: Method and Apparatus for
Effecting Payment

Dear Mr. Peckover:

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

Bradley P. Williams
Baker and Botts LLP
2001 Ross Ave
Suite 600
Dallas, TX 75201-2980
214-953-6447

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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MAY 3 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Douglas L. Peckover et al	:	
Application No. 11/153,224	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. 076891.0130(35207.32)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 23, 2005.

The request is **APPROVED**.

A review of the file record indicates that David L. McCombs: (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, David L. McCombs, along with all of the other attorneys associated with Customer No. **27683,** 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. § 1.36(b).

All future communications from the Office will be directed to the below address until otherwise properly notified by the applicant/assignee or the current attorneys of record.

The application is being referred to Technology Center AU 3621 for examination in due course.

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

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

Conferee: KB

cc:
BRADLEY P. WILLIAMS
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

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AUG 21 2008
OFFICE OF PETITIONS

In re Application of	:	
Makela et al.	:	
Application No. 11/153,240	:	DECISION ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 939-012263-US(PAR)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed April 9, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 10, 2007. A Notice of Abandonment was mailed August 6, 2007.

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

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

This application is being referred to the Office of Data Management for processing into a patent and review of drawings submitted on November 14, 2007.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED

NOV 22 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
BJONTEGAARD, GISLE
Application No. 11/153,243
Filed: June 14, 2005
For: **METHOD FOR CHROMA DEBLOCKING**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 24, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Peter O. Hill	: DECISION ON REQUEST FOR
Patent Number	: 7583715	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,245	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **747** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/17/2010

Applicant : Peter O. Hill
Patent Number : 7583715
Issue Date : 09/01/2009
Application No : 11/153,245
Filed : 06/15/2005

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

Mail Date: 04/21/2010

Applicant	: David P. Todd	: DECISION ON REQUEST FOR
Patent Number	: 7642990	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,250	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1113** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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O'KEEFE, EGAN & PERERMAN, LLP
BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN, TX 78746

MAILED

FEB 15 2006

TECHNOLOGY CENTER 2100

In re Application of: David Dionne
Application No. 11/153,251
Filed: June 15, 2005
For: APPARATUS AND METHODS FOR INFORMATION HANDLING SYSTEM WITH WIRELESS COMMUNICATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 2, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the U.S. Patent and Trademark Office (Office) will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Dale Hall for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: DAVID DIONNE
515 SPARKMAN DRIVE
SUITE 115
HUNTSVILLE, AL 35816

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: M. Samy Abdou	: DECISION ON REQUEST FOR
Patent Number	: 7618443	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,258	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **972** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OMORI & YAGUCHI USA, LLC
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1628 JOHN F. KENNEDY BLVD
SUITE 1300
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
KAWAI, Miwa	:	
Application No. 11/153,274	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. **Y05S012**	:	FROM RECORD
	:	

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 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 Konomi Takeshita on behalf of all attorneys of record who are associated with customer No. 35910. All attorneys/agents associated with the Customer Number 35910 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Miwa Kawai at the address indicated below.

There is an outstanding Office action mailed March 25, 2008, that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MIWA KAWAI**
4-8-13-305 SHIROKANE-DAI
MINATO-KU TOKYO 108-0071
JAPAN

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RESEARCH TRIANGLE PARK NC 27709

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OFFICE OF PETITIONS

In re Application of	:	
Mathew et al.	:	
Application No. 11/153,280	:	ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. CA920040114US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 10, 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 the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: LYNNE D. ANDERSON
IBM CORPORATION
333 JOHN CARLYLE STREET, SUITE 635
ALEXANDRIA, VA 22314

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United States Patent and Trademark Office
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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Israel Henrique Feferman	: DECISION ON REQUEST FOR
Patent Number	: 7576045	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,283	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **699** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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986 BEDFORD STREET
STAMFORD CT 06905-5619

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OFFICE OF PETITIONS

In re Application of	:	
Ruldolph et al.	:	
Application Number: 11/153293	:	ON PETITION
Filing Date: 06/15/2005	:	
Attorney Docket Number: 01925-P0248A	:	

This is a decision on the petition to withdraw the holding of abandonment filed on January 12, 2009.

This application was held abandoned for failure to timely respond to the Office communication mailed on April 8, 2008, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on November 7, 2008. On January 12, 2009, the subject petition was filed.

Petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Office communication mailed on April 8, 2008. In support of the allegation that the Office communication mailed on April 8, 2008 was never received, petitioners have submitted a copy of a docket record and provided a statement by registered patent practitioner Wesley W. Whitmyer, Jr., stating, *inter alia*, that no entry was found in counsel's docket report, and that a thorough examination of the file jacket reveals that the Office action has not been added. A copy of counsel's docket report and calendar have been included and are referenced in counsel's statement.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on April 8, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication mailed on April 8, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the Office communication mailed on April 8, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail

> date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> (emphasis added)

The petition is being construed to include a statement from the practitioner 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. Petitioners must inform the Office if this is an incorrect interpretation.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to Technology Center Art Unit 3657 for remailing of the Office communication mailed on April 8, 2008. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
Andrew W. Sparks et a.
Application No. 11/153,300
Filed: June 15, 2005
Attorney Docket No. 0492611-0625

: DECISION GRANTING
: PETITION

This is a decision on the petition filed July 14, 2005, which is treated under 37 CFR 1.182, requesting that the application be considered complete with Page 1 of the Specification as having been properly filed.

The application was filed June 15, 2005. However, on June 29, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts "Notice" stating, that the application had been accorded a filing date but that page 1 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that a 21 page specification was filed with the application on June 15, 2005. In support thereof, petitioner submits a copy of a postcard receipt which is properly itemized and which includes a 21 page specification. Furthermore, the postcard receipt lacks any notation on non-receipt of any item listed.

The petition is therefore **GRANTED**. The "Notice" mailed June 29, 2005 is vacated.

In view of the above, no petition fee is necessary and thus, deposit account no. 03-1721 will be credited in the amount of $400.00.

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

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

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HOUSTON, TX 77070

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APR 27 2010
OFFICE OF PETITIONS

In re Application of
Theodore Russell Ernst
Application No. 11/153,303
Filed: June 15, 2005
Attorney Docket No. 149-0169US / 03-016-US

DECISION ON PETITION

This is a decision on the petition, filed December 18, 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.

As petitioner has included a response to the non-final Office action of June 3, 2009, the petition is also considered a request to accept the included amendment as a timely response to the non-final Office action. Re-mailing of the non-received Office action is not required.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 3, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 4, 2009.

Petitioner asserts that the Office action dated June 3, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the non-final Office action of June 3, 2009. In this regard, the non-final Office action was returned to the Office because the address was insufficient. Accordingly, as the non-final Office action was returned to the Office and never re-mailed, the Notice of Abandonment mailed December 22, 2009 is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise 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 the Technology Center AU 2446 for the processing of the reply to the non-final Office action received December 18, 2009, filed concurrently with this petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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HOUSTON, TX 77070

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APR 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Theodore Russell Ernst	:	
Application No. 11/153,303	:	DECISION ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 149-0169US / 03-016-US	:	

This is a decision on the petition, filed December 18, 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.

As petitioner has included a response to the non-final Office action of June 3, 2009, the petition is also considered a request to accept the included amendment as a timely response to the non-final Office action. Re-mailing of the non-received Office action is not required.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 3, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 4, 2009.

Petitioner asserts that the Office action dated June 3, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the non-final Office action of June 3, 2009. In this regard, the non-final Office action was returned to the Office because the address was insufficient. Accordingly, as the non-final Office action was returned to the Office and never re-mailed, the Notice of Abandonment mailed December 22, 2009 is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Technology Center AU 2446 for the processing of the reply to the non-final Office action received December 18, 2009, filed concurrently with this petition.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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In re Application of	:	
Dimitris KALOFONOS, et al	:	
Application No. 11/153,307	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. 037145-2775	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008.

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

A review of the file record indicates that the power of attorney to Foley & Lardner LLP has been revoked by the assignee of the patent application on August 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BRADLEY C. WRIGHT
1100 13TH STREET, NW
SUITE 1200
WASHINGTON, DC 20005

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SUITE 1600
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OFFICE OF PETITIONS

In re Patent No. 7,439,022	: DECISION ON REQUEST
Hayashi	: FOR
Issue Date: October 21, 2008	: RECONSIDERATION OF
Application No. 11/153,309	: PATENT TERM ADJUSTMENT
Filed: June 15, 2005	:
Attorney Docket No. 77191	:
Title: NUCLEIC ACIDS FOR	:
DETECTION OF LISTERIA	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)" filed December 22, 2008. Patentees request that the patent term adjustment indicated in the patent be corrected from two hundred thirty-seven (237) to three hundred sixty-five (365) days.

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

On October 21, 2008, the above-identified application matured into U.S. Patent No. 7,439,022. The instant request for reconsideration was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 237 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 365 days in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR 1.702(b).

Patentees contend that they are entitled to a period of patent term adjustment equal to the period of delays accrued under 37 CFR §1.702 reduced by the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704.

The period of reduction of 56 days for applicant delay is not in dispute.

Patentees maintain that the total period of Office delay is 421 days, the sum of the period of Three Years Delay (128 days) and the period of other Examination Delay (293 days). Patentees do not dispute that they are entitled to both periods of delay only to the extent that these periods of delay are not overlapping. Rather, relying on the Wyeth[1] decision, patentees maintain that these periods do not overlap as the actual calendar dates in the periods do not overlap. As such, patentees assert entitlement to a patent term adjustment of 365 days (293 + 128 - 56).

Patentees' interpretation of the period of overlap has been considered, but not found persuasive.

It is recognized that the instant patent issued 3 years and 128 days after its filing date. However, this period of delay has to be considered in light of the 293 day period of adjustment accorded for Office delay in issuance of the first Office action. The Office contends that the entire period of 128 days overlaps with the days of patent term adjustment accorded prior to the issuance of the patent.

Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of the overlap provision of 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)[i] 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.

---

[1] Patentees acknowledge that the Office has appealed the Wyeth decision, and that this appeal is not yet resolved.

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the

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

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

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

---

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113,

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 June 15, 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 until the issuance of the patent, June 15, 2005 to October 21, 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 293 days, not 293 + 128 days. The Office took 14 months and 293 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 293 days of Office delay and the 56 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 128 days after its filing date. The Office did not delay 293 days and then an additional 128 days. Accordingly, 293 days of patent term adjustment (not 293 and 128 days) was properly entered since the period of delay of 128 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 293 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 293 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 128 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

In view thereof, the instant patent is not entitled to further adjustment.

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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).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The fee under 37 CFR 1.18(e) is required and will not be refunded.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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[i] 35 U.S.C. 154(b) ADJUSTMENT OF PATENT TERM. —
(1) PATENT TERM GUARANTEES. —
(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —
(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —
(I) the date on which an application was filed under section 111(a) of this title; or
(II) the date on which an international application fulfilled the requirements of section 371 of this title;
(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
(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.

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

MAILED

JUL 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Christopher J. Vitito	:	
Application No. 11/153,363	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. VIT-018	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final Office action mailed December 3, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 4, 2009. A Notice of Abandonment was mailed June 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 $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The statement of unintentional delay was made by the applicant.

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

This matter is being referred to Technology Center 2427 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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WOODBURY NY 11797

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JUN 11 2010

OFFICE OF PETITIONS

In re Application of	:	
CHRISTOPHER VITITO	:	
Application No. 11/153364	:	ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. VIT-023	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed February 18, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 19, 2009. On October 15, 2009, a Notice of Abandonment was mailed.

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, a Request for Continued Examination, and the $810 continued examination fee; (2) the petition fee of $1620; and the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 18, 2009 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 2622 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

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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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APR 2 9 2009

Richard Neifeld
Neifeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA 22304

In re Application of: Roy Simrell	:	PETITION TO INVOKE
Application No. 11/153,377	:	SUPERVISORY AUTHORITY
Filed: June 16, 2005	:	UNDER
Attorney Docket No.: PIP171SIMRU-US	:	37 C.F.R. 1.181
For: AMBER ALERT SYSTEM AND METHOD FOR LOCATING MISSING CHILDREN	:	

This is in response to applicant's petition, filed on December 19, 2008, under 37 CFR 1.181 to have the Director instruct the examiner to:

1. accept and enter and act upon the amendment filed July 17, 2008 as meeting the requirement of 37 CFR 1.121 and 1.4.

2. expunge the requirement to submit a revised amendment so that it is clear that the requirement was improper and so that the requirement cannot detrimentally affect patent term adjustment.

3. specify in the decision that the application will not lose patent term based upon 37 CFR 1.704 (c)(7) due to the issuance of the improper notice and revised the Notice of Non-Compliant Amendment mailed on November 3, 2008 withdrawn and office action issued.

The petition is **DENIED.**

A Notice of Non-Compliant Amendment under 37 CFR 1.121 was mailed to the applicant on November 3, 2008 indicating that the amendment of July 17, 2008 was improper because each claim has not been provided with the proper status identifier. Specifically, claims that should have been identified as "Original" were identified as "Previously Presented".

According to 37 CFR 1.121 (5) the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered). Since a claim can only fall into one of the different identifier categories an original claim would not be identified as "Previously presented". Therefore, identifying original claims as "Previously presented" is improper and the Notice of Non-Compliant mailed on July 17, 2008 was proper.

Furthermore, regarding MPEP 714, ii.(C), there is no indication that the applicant should change the identifier from "Original" to "previously Presented" when filing an amendment that includes the original claims.

The amendment filed on November 25, 2008 has been entered and forwarded to the examiner for review.

Any questions concerning this decision should be directed to John G. Weiss at (571) 272-6812.

Summary: ***Petition DENIED***

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

jgw/snm: 04/28/09

SM

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OFFICE OF PETITIONS

NIEFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA. 22304

In re Application of	:	
Roy SIMRELL	:	
Application No. 11/153,377	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. PIP171SIMRU-US	:	

This is a decision on the petition, filed June 4, 2009, under 37 CFR 1.181, requesting a review of the decision dated April 29, 2009, expungement of the Notice of Noncompliant Amendment, and instruct the examiner to record that the application will not detrimentally affect patent term adjustment.

The petition is **DISMISSED AS MOOT**.

A review of the record indicates that on July 17, 2008, the applicant filed an amendment that listed the claim status identifier "(Previously Presented)" to refer to status of claims that were present at the time of filing the instant application. On November 3, 2008, the USPTO mailed a Notice of Non-Compliant Amendment requiring that claims presented at the time of filing have the status identifier "(Original)". In response, petitioner filed an amendment on November 25, 2008 correcting the status identifiers "(Previously Presented)" to "(Original)", and on December 19, 2008 submitted a petition to accept , enter, and act on the amendment as meeting the requirements of 37 CFR 1.121 and 37 CFR 1.4. Additionally petitioner requested expungement of the requirement to submit a revised amendment and a recording to the file that the application would not lose patent term based upon 37 CFR 1.704(c)(7). On March 9, 2009, the examiner, being satisfied that the claims were now in proper form, issued an office action on the said amended claims. The petition filed December 19, 2008 was denied and Petitioner now seeks review under 37 CFR 1.181.

The file record indicates that this petition must be dismissed as moot since petitioner has presented a complying amendment of the claims in response to the Notice of Noncompliant Amendment. Hence there was no preserved right to petition once compliance with the Notice has been received by the Office. There was no request that the requirement be held in abeyance,

noting that applicant voluntarily chose to continue prosecution of the application by the submission of a complying amendment filed on November 25, 2008. Arguments regarding patent term issues based on 37 CFR 1.704(c)(7) due to issuance of an improper notice, are not convincing since applicants response November 25, 2008 removed any traverse of said Notice.

Accordingly, the petition is dismissed as moot.

Any request for 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 request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602.

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

This application is being referred to Technology Center AU 3629 for appropriate action in the normal course of business.

Thurman K. Page
Petitions Examiner
Office of Petitions

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APR 20 2010

OFFICE OF PETITIONS

NIEFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA. 22304

In re Application of	:	
Roy SIMRELL	:	CORRECTED
Application No. 11/153,377	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. PIP171SIMRU-US	:	

This is a decision on the petition, filed June 4, 2009, under 37 CFR 1.181, requesting a review of the decision dated April 29, 2009, expungement of the Notice of Noncompliant Amendment, and instruct the examiner to record that the application will not detrimentally affect patent term adjustment. A review of the file indicates that the petition was in fact filed within two months of the Notice of Non-Compliant Amendment. Therefore the decision issued April 7, 2009 is hereby vacated and the following decision issued.

The petition is **DISMISSED**.

A review of the record indicates that on July 17, 2008, the applicant filed an amendment that listed the claim status identifier "(Previously Presented)" to refer to status of claims that were present at the time of filing the instant application. On November 3, 2008, the USPTO mailed a Notice of Non-Compliant Amendment requiring that claims presented at the time of filing have the status identifier "(Original)". In response, petitioner filed an amendment on November 25, 2008 correcting the status identifiers "(Previously Presented)" to "(Original)", and on December 19, 2008 submitted a petition to accept, enter, and act on the amendment as meeting the requirements of 37 CFR 1.121 and 37 CFR 1.4. Additionally petitioner requested expungement of the requirement to submit a revised amendment and a recording to the file that the application would not lose patent term based upon 37 CFR 1.704(c)(7). On March 9, 2009, the examiner, being satisfied that the claims were now in proper form, issued an office action on the said amended claims. The petition filed December 19, 2008 was denied and Petitioner now seeks review under 37 CFR 1.181.

A review of the file record indicates that this petition must be dismissed. A review of the Notice of Non-Compliant Letter dated November 25, 2008 correctly indicates that the amendment filed July 17, 2008 contained new claims that were identified as "Previously

Presented". New claims are identified by the status identifiers "Original Claim" or "Originally filed Claim". The Office may accept additional variations of a status identifier provided that the Office personnel determine s that the status of the claim is accurate and clear. Here the Office personnel determined that the status identifier of originally filed claims presented in the amendment filed July 17, 2008 was not accurate and clear. Therefore the Notice of Non-Compliant Amendment was proper and the paper will not be expunged nor consideration given to Patent Term Adjustment at this time.

A review of the Technology Center Director's decision indicates that the Director's decision was not arbitrary or erroneous and hence the petition is dismissed.

Any request for 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 request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

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

By Mail: Mail Stop PETITION
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Alexandria, VA 22313-1450

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602.

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

This application is being referred to Technology Center AU 3629 for appropriate action in the normal course of business.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

Mail Date: 04/23/2010

Applicant	: Mika Wachi	: DECISION ON REQUEST FOR
Patent Number	: 7613096	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,391	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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	: Eli Arad	: DECISION ON REQUEST FOR
Patent Number	: 7603506	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **13** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ISAAC A. ANGRES
SUITE 301
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of :
Keillor et al. :
Application No. 11/153,398 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. Michnick 001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is April 12, 2008. A Notice of Abandonment was mailed October 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 a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on November 12, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded via treasury check.

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

This application is being referred to Technology Center AU 1641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WOODBURY, NY 11797

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JUL 29 2010
OFFICE OF PETITIONS

In re Application of
Christopher J. Vitito
Application No. 11/153,411
Filed: June 16, 2005
Attorney Docket No.: VIT-020

ON PETITION

This is a decision in response to the petition, filed June 4, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 30, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 31, 2008. A Notice of Abandonment was mailed on March 10, 2009. On June 4, 2010, the present petition was filed.

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

The application is being referred to Technology Center AU 2427 for appropriate action by the Examiner in the normal course of business on the amendment received June 4, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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In re Application of	:	
Endo	:	
Filed: June 16, 2005	:	ON PETITION
Application No. 11/153,420	:	
Atty. Dkt. No.: SON-3326	:	

This decision is in response to the "PETITION TO WITHDRAW NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 CFR 1.53(e)" and the "PETITION TO ACCORD FILING DATE OF JUNE 16, 2005 AND REQUEST FOR REFUND," filed October 31, 2005.

The application was filed June 16, 2005. The Notice of Incomplete Nonprovisional Application (Notice) mailed July 12, 2005 indicated that the application had not been accorded a filing date because the application appeared to have been deposited without a claim as required per 35 USC 112.

The Notice set a two month shortened statutory period of time for reply and did not allow for extensions of time. Absent receipt of a response to the Notice, a Notice of Termination of Proceedings under 37 CFR 1.53(e) was mailed October 20, 2005.

Petitioner herein argues that a response to the Notice was timely submitted September 12, 2005 and has submitted as proof of receipt of same a return postcard date stamped September 12, 2005 by the Office wherein receipt is acknowledged of a petition to accord filing date along with attachments.

In view of the evidence submitted, the petition to withdraw notice of termination of proceedings is hereby **GRANTED**; the Notice of Termination of Proceedings under 37 CFR 1.53(e) is hereby **VACATED**; and the holding of termination is hereby **WITHDRAWN**, thus reinstating the status of the instant application to that of pending.

As regards the petition for filing date, petitioner argues that the application as deposited did in fact include claims and has included as proof of mailing and proof of receipt of the claims,

a return postcard date stamped by the Office on June 16, 2005. The postcard acknowledges the receipt of eight claims contained on nine pages. A copy of the nine pages containing the eight claims purportedly filed with the application on June 16, 2005 was submitted herewith.

The original nine pages contains eight claims submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of June 16, 2005 is GRANTED.

Since the original nine pages containing eight claims cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

Petitioner has advised that no petition fee has been charged with regard to these matters.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 16, 2005 and, if necessary, reprocessing of filing fees.

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

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

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SEP 26 2008

In re	:	
Patent No. 7,357,413 B2	:	DECISION ON PETITION
Issued: April 15, 2008	:	
Application No. 11/153,434	:	
Filed: June 16, 2005	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182 FOR A DUPLICATE PATENT GRANT", filed July 22, 2008, and the petition to expedite, filed July 31, 2008.

The petition under 37 CFR 1.182 is **GRANTED.**

The petition to expedite is **GRANTED.**

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)308-9250, extension 129.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, P/OPPD (FAX 571-270-9937)

Docket No. 25898.01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

APPLICANT : HARRY H. CHAPPELL ET AL.

SERIAL NO : UNASSIGNED 11/153449 ART UNIT: UNASSIGNED 1755

FILED : HEREWITH 6-16-05 EXAMINER: UNASSIGNED Green, A

FOR : WATER ENHANCEMENT FIRE RETARDANT

ASSISTANT COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 14509

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE

Dear Sir:

Applicants co-inventors hereby petition to make this application special because of the applicants' ages. Specifically, we are more than sixty-five years old, having been born on February 22, 1931 (Mr. Darius Chung) and December 4, 1926 (Mr. Robert R. Swinney), respectively.

This petition is submitted without any fee as permitted by 37 C.F.R. 1.102(c).

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: June 14, 2005

Darius Chung
DARIUS CHUNG
1550 Vicenza Drive
Sparks, NV 89436

Date: 6-14-05

Robert R. Swinney
ROBERT R. SWINNEY,
840 Bowman Avenue
Reno NV 89503

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700 SEP 2 6 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST
SUITE 210
PONTIAC, MI 48342

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Dominique Busseuil et al.	:	
Application No. 11/153,460	:	DECISION NOTING JOINDER
Filed: June 15, 2005	:	OF INVENTOR MOOT
Attorney Docket No. 1001.066C1	:	

Papers filed on February 12, 2010 and supplemented on April 22, 2010 under 37 CFR 1.47(a), which is being treated as a petition under 37 CFR 1.183 seeking waiver the requirements of 37 CFR 1.131.

In view of the joinder of the inventor, further consideration under 37 CFR 1.183 is moot.

This matter is being referred to Technology Center AU 1783 for examination in due course.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/21/2010

Applicant	: Charles Chui	: DECISION ON REQUEST FOR
Patent Number	: 7570832	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,461	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **847** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANTON P. NESS
FOX ROTHSCHILD LLP
1250 SOUTH BROAD STREET, SUITE 1000
P.O. BOX 431
LANSDALE, PA 19446-0431

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OFFICE OF PETITIONS

In re Application of
MONCAVAGE, Charles
Application No. 11/153,469
Filed: June 15, 2005
Attorney Docket No. **P2M-0001**

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 12, 2007.

The request is **NOT APPROVED**.

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

The 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 March 23, 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 Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MR. CHARLES MONCAVAGE**
386 NOLF ROAD
NAZARETH, PA 18064

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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Noel A. Spishak	: DECISION ON REQUEST FOR
Patent Number	: 7596843	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Mr. Eric Chan
42 Pin Oaks Drive
Phoenixville PA 19460

In re Application of	:	MAY - 5 2010
HUI, PEI HANG	:	
Application No.: 11/153,485	:	DECISION ON
Filing or 371(c) Date: June 16, 2005	:	PETITION
Attorney Docket Number: 8456	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) on November 27, 2009.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the corrected drawings as required by the Notice of Allowance, mailed June 25, 2009 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on October 16, 2009.

Petitioner states that the issue fee transmittal and replacement sheet drawings were timely filed via the USPTO on September 21, 2009. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

Mail Date: 04/21/2010

Applicant	: Frank Leyshon	: DECISION ON REQUEST FOR
Patent Number	: 7637449	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: 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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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

Mail Date: 04/21/2010

Applicant	: Kenneth L. Levy	: DECISION ON REQUEST FOR
Patent Number	: 7587601	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1083** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PERKINS COIE LLP
PATENT-SEA
PO BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Blaine J. Thurgood	: DECISION ON REQUEST FOR
Patent Number	: 7573125	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,529	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **641** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HEIMBECHER & ASSOC., LLC
P O BOX 33
HAMEL MN 55340-0033

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OFFICE OF PETITIONS

In re Application of	:	
Alexander BROWN	:	
Application No. 11/153,555	:	DECISION ON PETITION
Filed: June 14, 2005	:	
Attorney Docket No. 009-040003US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 2008, which set a shortened statutory period for reply of three (3) months. 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 August 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of February 22, 2008 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3679 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Kang, Choi, Hwang, Park, Choi, Song, Lee, Kraev :
Application No.: 11/153,557 : DECISION ACCORDING
Filed: June 16, 2005 : RULE 47(a) STATUS
Attorney Docket No: 104-1054 :
For: **SUBSTRATE DELIVERING APPARATUS**

This is in response to the petition under 37 CFR 1.47(a), filed June 16, 2005.

The petition is **GRANTED**.

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

The above-cited application was filed on June 16, 2005, and was accompanied by the instant petition.

Petitioner has shown that inventor Kraev has constructively refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Ratnerprestia
P.O. Box 980
Valley Forge, PA 19482

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OFFICE OF PETITIONS

In re Application of	:	
Yuichiro Sasaki et al.	:	
Application No. 11/153,572	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. MAT-8712US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 7, 2006.

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

A review of the file record indicates that the power of attorney to Ratnerprestia has been revoked by the assignee of the patent application on May 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDermott Will & Emery LLP**
600 13th Street, NW
Washington D.C. 20005-3096

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JOHN MAIER, III
660 AARON COURT
KINGSTON NY 12401

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OFFICE OF PETITIONS

In re Application of	:	
John Ritte	:	
Application No. 11/153589	:	DECISION
Filing or 371(c) Date: 06/15/2005	:	ON PETITION
Title of Invention:	:	
AIR RELEASE	:	

This is a decision on the "Petition to Revive an Unavoidably Abandoned Application," filed January 10, 2008. The petition is properly treated under 37 CFR 1.137(a).

This Petition 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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed July 2, 2007. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on August 3, 2007. A Notice of Abandonment was mailed January 9, 2008.

The present petition

Petitioner herein asserts that the delay in responding to the Notice allegedly occurred at a time of heavy workload due in part to illness of the attorney in the prior year.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of

a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting 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).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith

v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). 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).

Analysis

Applicant here asserts that the delay in responding to the Office action was unavoidably abandoned due to a significant backlog of work as a result of health problems suffered in late 2006.

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner has failed to demonstrate that the application was abandoned unavoidably. The standard requires Petitioner to demonstrate that he acted as a prudent and careful person in relation to is most important business. Petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable. Here, petitioner asserts the delay was unavoidable because of a heavy workload. In this regard, a prudent and careful person in relation to his most important business, would have arranged for assistance to ensure that his most important business was conducted in a timely manner.

Petitioner has also failed to account for the entire period of the delay. The Rule requires a showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. Here, the reply was due not later than August 3, 2007. The present petition was filed January 10, 2008. Applicant must prove that the delay was unavoidable. Proof in the form of documentary evidence supporting Petitioner's assertion that a heavy workload made filing a timely reply, from the due date for the reply, until the filing of a grantable petition, was unavoidable, is required.

Finally, it is reiterated that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a).

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Finally, the address on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise

instructed, all future correspondence regarding this application will be mailed solely to the address of record. Applicant is reminded that 37 CFR 1.4(c) requires that "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

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
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JOHN MAIER, III
660 AARON COURT
KINGSTON NY 12401

COPY MAILED

JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
John Ritte	:	
Application No. 11/153589	:	DECISION
Filing or 371(c) Date: 06/15/2005	:	ON PETITION
Title of Invention:	:	
AIR RELEASE	:	

This is a decision on the "Petition to Revive an Unintentionally and/or Unavoidably Abandoned Application," filed June 16, 2008.

The petition under 37 CFR 1.137(a) is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed July 2, 2007. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on August 3, 2007. A Notice of Abandonment was mailed January 9, 2008.

The January 10, 2008 petition

Petitioner filed a petition to revive the application based upon unavoidable delay on January 10, 2008, and asserted that the delay in responding to the Notice allegedly occurred at a time of heavy workload due in part to illness of the attorney in the prior year.

The February 13, 2008 Decision on petition

The petition was dismissed in a Decision mailed February 13, 2008. The Decision stated that Petitioner had failed to demonstrate that the application was abandoned unavoidably. The Decision noted that Petitioner must prove that the delay was unavoidable. . Petitioner asserted the delay was unavoidable because of a heavy workload. In this regard, the Decision stated that a prudent and careful person in relation to his most

important business, would have arranged for assistance to ensure that his most important business was conducted in a timely manner. Petitioner had also failed to account for the entire period of the delay. The Rule requires a showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. The reply was due not later than August 3, 2007. The petition was filed January 10, 2008. Applicant's burden was to prove that the entire delay was unavoidable. Proof in the form of documentary evidence supporting Petitioner's assertion that a heavy workload made filing a timely reply, from the due date for the reply, until the filing of a grantable petition, was unavoidable, had not been provided.

Finally, it was reiterated that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a).

The present renewed petition under 37 CFR 1.137(a)

Applicant files the present renewed petition and states that at the time the response to the Office action was filed in late 2006, Applicant believed that the response had been acepted[1]. Applicant argues that it is reasonable that the abandonment was unavoidable in view of the health situation of Applicant's attorney. Applicant further provides that, at the time of the mailing of the Notice of Abandonment, Applicant was in communication with this Office and an amendment was filed which crossed in the mail with the Notice of Abandonment.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may met by the filing of

a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); **(2)** the petition fee as set forth in 37 CFR 1.17(l); **(3)** a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and **(4)** any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

[1] Office records reveal that a reply to the non-final Office action, resulting in the mailing of the Notice of Non-Compliant Amendment, was filed was filed June 21, 2007.

Applicant lacks item (3) as set forth above.

Applicable Law, Rules and MPEP

As to item (3), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting 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).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith

v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2]

[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). 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).

Analysis

Applicant here asserts that the delay in responding to the Office action was unavoidably abandoned due to Applicant files the present renewed petition and states that at the time the response to the Office action was filed in late 2006, Applicant believed that the response had been acepted. However, it is Applicant's responsibility to file a complete and proper reply as the condition of the application requires. See, 37 CFR 1.135. Here, Applicant's reply filed June 21, 2007, was non-compliant. Applicant was so notified in the Notice of Non-Compliant Amendment ("Notice"), mailed July 2, 2007. The Notice set a one (1) month period for reply. No reply was received, and the application became abandoned.

Applicant argues that it is reasonable that the abandonment was unavoidable in view of the health situation of Applicant's attorney, however, Applicant has again failed to provide documentary evidence supporting Applicant's assertion that he suffered from ill health that

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

prevented Applicant from conducting business during the relevant period, from the date that the reply was due, to the filing of a grantable petition.

Applicant further provides that, at the time of the mailing of the Notice of Abandonment, Applicant was in communication with this Office and an amendment was filed which crossed in the mail with the Notice of Abandonment. Office records do not reveal that a reply to the Notice of Non-Compliant Amendment was filed after the Notice was mailed, or prior to, or on or about the time that the Notice of Abandonment was mailed. Applicant has not provided any documentary evidence to support this assertion.

Petition under 37 CFR 1.137(b)

Applicant files the present petition, and an Amendment in response to the Notice was filed with the petition filed January 10, 2008. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3634 for processing of the reply to the Notice filed with the petition on January 10, 2008, in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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660 AARON COURT
KINGSTON NY 12401

COPY MAILED

JUL 23 2009

OFFICE OF PETITIONS

In re Application of	:	
John Rittie	:	
Application No. 11/153589	:	DECISION
Filing or 371(c) Date: 06/15/2005	:	ON PETITION
Title of Invention:	:	
AIR RELEASE	:	

This is a decision on the "Petition to Restore this Application to Active Status and/or to Revive the Application," filed June 24, 2009. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a), or in the alternative as a petition to revive the application under 37 CFR 1.137(b).

The Petition under 37 CFR 1.181(a) is hereby **dismissed**.

The Petition under 37 CFR 1.137(b) 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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 18, 2008. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a reply to the Office action on October 13, 2008 in the form of an amendment; however, the amendment was not entered because the amendment raised new issues, and was not deemed to place the application in better form for appeal. Applicant was so notified in an Advisory Action, mailed November 5, 2008. No complete and proper reply to the final Office action having been received, the application became abandoned on November 19, 2008. A Notice of Abandonment was mailed May 12, 2009.

The present petition

Applicant files the present petition and avers that replies to the Office action were filed on October 20, 2008 and October 23, 2008, and either one of these responses would have avoided the abandonment of the application.

Applicable Law, Rules and MPEP

37 CFR 1.135, Abandonment for failure to reply within time period, provides that

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. (Emphasis supplied).

MPEP 711.03(c)

The MPEP 711.03(c)(I)(A), Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, explains that

> [e]vidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Analysis and conclusion

In this instance, Applicant filed a reply to the final Office action; however, the reply failed to place the application in condition for allowance. The application became abandoned for failure to file "such complete and proper reply as the condition of the application may require." The failure to receive the Advisory Action prior to abandonment of the application does not warrant withdrawal of the holding of abandonment.

Regarding non-receipt of the Advisory Action, Applicant is also advised that the MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., **if the practitioner has a history of not receiving Office actions**). (Emphasis supplied).

In this instance, the final Office action, mailed August 18, 2008, was returned to this Office by the United States Postal Service ("USPS") as undeliverable. The Advisory Action was also apparently not received. Applicant notes in the present petition that he has been having trouble with mail delivery and as a result has redirected mail delivery to his home where his Office is now located and not the Kingston Post Office. However, no change of correspondence address has been located in the present petition. Applicant is reminded that in accordance with 37 CFR 1.4(c), and "[s]ince different matters may be considered by different branches or sections of the

United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. The MPEP states that "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11. The notification should also include his or her telephone number. MPEP 601.03. As stated in the MPEP 711.03(c), when discussing unavoidable delay in responding to an Office communication,

> For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:
> (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;
> (B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or
> (C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

A proper change of correspondence address in accordance with the MPEP 601.03 is required.

A Grantable Petition Under 37 CFR 1.137(b)

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

The present petition lacks items (1), (2) and (3).

Analysis

As to item (1), it is reiterated that the Amendment filed October 23, 2008 failed to place the application in condition for allowance.
As to item (2) Applicant has not included the petition fee.
As to item (3) Applicant has failed to include a proper statement of unintentional delay.

Conclusion

The petitions are dismissed without prejudice.

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 courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

By mail: 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 Decision only should be directed to the undersigned at (571) 272-3232.

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

Enclosures: November 5, 2008 Advisory Action
Change of Address Form

CC: JOHN MAIER, III
124 DRY BROOK ROAD
WEST SHOKAN, NY 12494

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/153,589	06/15/2005	John Rittie	1713-1	9304

7590 11/05/2008
JOHN MAIER, III
Box 2324
KINGSTON, NY 12402

EXAMINER
REDMAN, JERRY E

ART UNIT	PAPER NUMBER
3634	

MAIL DATE	DELIVERY MODE
11/05/2008	PAPER

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

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

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	11/153,589	RITTIE, JOHN	
	Examiner	Art Unit	
	Jerry Redman	3634	

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

THE REPLY FILED 23 October 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 _____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: *the additional phraseology raises new issues*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1, 5-7, and 9-10*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Jerry Redman/
Primary Examiner, Art Unit 3634

Continuation of 13. Other: the amendments to the claims (specifically claim 7) would be held non-responsive.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090615

DATE : June 17, 2009

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 7,538,682

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Benjamin Lee/ **Art Unit** 2612

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,482,349	:	
Malamas et al.	:	DECISION ON REQUEST
Issue Date: January 27, 2009	:	FOR
Application No. 11/153,633	:	RECONSIDERATION OF
Filed: June 15, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. AM101475	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed March 27, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the patent term adjustment indicated on the patent be corrected from five hundred seventy-six (576) days to six hundred fifty-two (652) days as of the mailing of the notice of allowance[1] and finally to seven hundred seventy-seven (777) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

On January 27, 2009, the above-identified application matured into U.S. Patent No. 7,482,349, with a revised Patent Term Adjustment of 576 days. The instant request for reconsideration filed March 27, 2009 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment of 125 days, as of the date of the mailing of the notice of allowance, should have been entered for the Office taking in excess of three years to issue

[1] Patentees assert that the patent term adjustment indicated on the PTOL-85 should have stated that the PTA is 652 days, not 576 days, and that the total PTA is 652 days plus the number of days from the PTOL-85 date to the issue date of the patent. With regard to this assertion, patentees are reminded that the calculation of the period of Office delay for the Office taking in excess of three years to issue the patent is not calculated based on the mailing date of the notice of allowance (or PTOL-85).

the patent. Patentees assert that this amount continued to accrue until the date of issuance, but do not state a specific number of days based on the actual date of issuance.

Patentees' argument has been considered, but not found persuasive. Pursuant to 35 U.S.C. 154(b) and implementing regulation 37 CFR 1.702(b), the patent term is to be adjusted for failure to issue a patent within three years of the actual filing date of the application. In this instance, the patent issued three years and 226[2] days after its filing date, and there were no periods excluded pursuant to 35 U.S.C. 154(b)(1)(B)(i)-(iii) and 37 CFR 1.702(b)(1)-(4). However, entry of an additional adjustment for Office delay is limited by 35 U.S.C. 154(b)(2)(A) and 37 CFR 1.703(f).

35 U.S.C. 154(b)(2)(A) provides the following limitation:

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

As further provided in 37 CFR 1.703(f):

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704.

Pursuant to 35 USC 154(b)(2)(A) and 37 CFR 1.703(f), any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the

---

[2] The application was filed under §111(a) on June 15, 2005, and issued on January 27, 2009, three years and 226 days later. The basis of patentee's calculation of 2 additional periods of adjustment of 125 days each is unclear as the Office did not issue the application three years and 250 days after its filing date.

patent will not result in any additional patent term adjustment. Further, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. The Office has explained that in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 1284 OG 109 (July 13, 2004); 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, other than the 601-day delay in issuing the first Office action, there were no Office delays during the pendency of this application. The Office did not delay 601 days and then an additional 226 days. Given the 601-day delay, and the undisputed 25-day applicant delay and time allowed for processing and examination, the patent issued three years and 226 days after the application filing date. 601 days is the actual number of days the issuance of the patent was delayed by the Office. All of the 226 days pursuant to §1.702(b) overlapped with the 601 days accorded pursuant to §1.702(a)(1), and thus, no additional periods of adjustment were entered for Office delay in issuing the patent pursuant to §1.702(b).

In view thereof, the patent term adjustment remains 576 (601 - 25) days.

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

Mail Date: 04/21/2010

Applicant	: Michael Lee	: DECISION ON REQUEST FOR
Patent Number	: 7609968	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1097** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/23/2010

Applicant	: Russell Mays	: DECISION ON REQUEST FOR
Patent Number	: 7646836	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,654	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 07/23/2010

Applicant	: Subrata Banerjee	: DECISION ON REQUEST FOR
Patent Number	: 7653054	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/153,656	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Mike Gailloux	: DECISION ON REQUEST FOR
Patent Number	: 7600690	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **219** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. None

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

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OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
Dennis Nordman
Application No. 11/153,662
Filed: June 15, 2005
Attorney Docket No. 0114212-020
Title: GAMING DEVICE HAVING DISPLAY WITH CONCENTRICALLY ROTATING AND TRANSLATING INDICATOR THEREFORE

This is a decision on the petition under 37 C.F.R. §1.182, filed August 2, 2005, requesting that the above-identified application be accorded a filing date of June 15, 2005, with Figure 2 as part of the original disclosure of the application.

The application was deposited on June 15, 2005. However, on July 14, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figure 2. The notice set a two-month period for response.

On August 2, 2005, the present petition was filed, along with a copy of Figure 2 and the petition fee. Petitioner has requested the entry of this figure which was not submitted on filing.

It is noted that Petitioner has not submitted a supplemental declaration.

The petition under 37 CFR §182 is **DISMISSED**.

The application will receive a filing date of June 15, 2005, however, Figure 2, submitted with the present petition, will not be entered. If Petitioner desires for the missing page to be included, he should submit this page via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The original application papers will include only those application papers present on the date of deposit.

1 See MPEP 608.02(a).

The petition fee of $400.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

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

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

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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS CO 80525

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JAN 1 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Coriasso et al.	:	
Application No. 11/153,672	:	ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 36040766US-02	:	

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.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Michael J. Tempel 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. Tempel desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Tempel, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed April 1, 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 May 2, 2008. A Notice of Abandonment was mailed December 10, 2008. On December 15, 2008, the present petition was filed.

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

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

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

This application is being referred to Technology Center 2828 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL TEMPEL
SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
TWO RAVINIA DRIVE, SUITE 790
ATLANTA, GA 30346

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Richard B. Kraus, Kurt Christopherson and :
Robert Markowski
Application No. 11/153,677 :
Filed: June 15, 2005 :
Title: VIBRATORY SPIRAL CONVEYOR :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 30, 2005 (Certificate of Mailing Date: September 28, 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 June 15, 2005 without an executed oath or declaration and naming Richard B. Kraus, Kurt Christopherson and Robert Markowski as joint inventors.

Accordingly, on July 28, 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 30, 2005 (Certificate of Mailing Date: September 28, 2005), the instant petition was 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 items (1), as set forth above.

As to item (1), even though the non-signing inventor has indicated it was not necessary to send a copy of the application papers to him, an attempt should still be made. Unless the non-signing inventor is presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor can not attest that he has "reviewed and understands the application papers" and therefore can not sign the declaration which he was given. Accordingly, Rule 47 applicant has failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

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JAN 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard B. Kraus, Kurt Christopherson and Robert Markowski	:	
Application No. 11/153,677	:	DECISION GRANTING PETITION
Filed: June 15, 2005	:	UNDER 37 CFR 1.47(a)
Title: VIBRATORY SPIRAL CONVEYOR	:	

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed December 16, 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 3600 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICHARD B. KRAUS
215 BELLINGHAM DRIVE
BARRINGTON, IL 60010

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JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of
Richard B. Kraus, Kurt Christopherson and Robert Markowski
Application No. 11/153,677
Filed: June 15, 2005
Title: VIBRATORY SPIRAL CONVEYOR

Dear RICHARD B. KRAUS:

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

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

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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AUTOLIV ASP INC
3350 AIRPORT ROAD
OGDEN UT 84405

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SEP 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael R. Schramm, et al.	:	
Application No. 11/153,694	:	ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 14364 (61174/17)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 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 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 23, 2007. The Notice of Abandonment was mailed January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 3616 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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BOLESH J. SKUTNIK
CERAMOPTEC INDUSTRIES, INC.
515 SHAKER RD.
EAST LONGMEADOW, MA 01028

COPY MAILED

APR 23 2009

OFFICE OF PETITIONS

In re Application of Nifantiev et al. :
Application No. 11/153,703 : Decision on Petition
Filing Date: June 15, 2005 :
Attorney Docket No. BJA 345A :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2009, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on June 12, 2008. The final Office action set a shortened statutory period for reply of three (3) months. A reply and request for a two-month extension of time were filed November 12, 2008. The reply was not a proper reply to the final Office action. As a result, the application became abandoned on November 13, 2008, and the examiner mailed an Advisory Action on December 17, 2008. A formal Notice of Abandonment has not been mailed.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination. Petitioner has submitted the required petition fee of $810. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

The petition is signed by Attorney Eric Grondahl. Attorney Grondahl was not an attorney of record at the time the application became abandoned. Therefore, it appears Attorney Grondahl *may* not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Grondahl that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

While a courtesy copy of this decision is being mailed to the Attorney Grondahl at the address listed in the petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 1618 will be informed of the instant decision and the Request for Continued Examination and submission will be considered by the examiner 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

cc: Eric E. Grondahl
McCarter & English, LLP
City Place I
185 Asylum Street
Hartford, CT 06103-3495

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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BOLESH J. SKUTNIK
CERAMOPTEC INDUSTRIES, INC.
515 SHAKER RD.
EAST LONGMEADOW, MA 01028

MAILED
JUN 16 2010
OFFICE OF PETITIONS

In re Application of
Nikolay Nifantiev et al
Application No. 11/153,703
Filed: June 15, 2005
Attorney Docket No. BJA 345A

ON PETITION

This is a decision on the petition, filed June 15, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 20, 2010 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 chage of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 1618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently-filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: McCarter & English, LLP
CityPlace I
185 Asylum Street
Hartford, CT 06103

---

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Frederic Bauchot	: DECISION ON REQUEST FOR
Patent Number	: 7600267	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1093** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 05/17/2010

Applicant : Frederic Bauchot
Patent Number : 7600267
Issue Date : 10/06/2009
Application No : 11/153,708
Filed : 06/14/2005

: 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 **1129** 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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HARNESS DICKEY & PIERCE, PLC.
P.O. BOX 8910
RESTON, VA 20195

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
LOH, Ban P.	:	
Application No. 11/153,724	:	DECISION ON PETITION
Filed: June 14, 2005	:	TO WITHDRAW
Attorney Docket No. **1485/36 (8966-000009)**	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to **HARNESS DICKEY & PIERCE, PLC** has been revoked by the assignee of the patent application on August 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: **JENKINS, WILSON, TAYLOR & HUNT, PA.**
3100 TOWER BOULEVARD, SUITE 1200
UNIVERSITY TOWER
DURHAM, NC 27707

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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CONNOLLY BOVELODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899-2207

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
H. Scott Goodrich et al	:	
Application No. 11/153,734	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 22129-00003-US3	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed July 31, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

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

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 1775 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK NY 10038

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of	:	
MAAYAN, Eduardo	:	
Application No. 11/153,738	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. **ELG-P-7633-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 **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 43214 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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AUG 1 8 2008

OFFICE OF PETITIONS

CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

In re Application of	:	
VISCAUSKAS, Andy et al.	:	
Application No. 11/153,754	:	DECISION ON PETITION
Filed: July 14, 2005	:	TO WITHDRAW
Attorney Docket No. **8096.0022**	:	FROM RECORD
	:	

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 14, 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 Kevin Russell on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 06, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ANDY VILCAUSKAS**
7305 SW DELAWARE CIRCLE
TUALATIN OR 97062

cc: **EXITEXCHANGE CORPORATION**
921 S.W. WASHINGTON STREET
PORTLAND OR 97205

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Paper No.

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PATENT DEPARTMENT
Bld 114 M/S 114
EASTERN POINT ROAD
GROTON CT 06340

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OFFICE OF PETITIONS

In re Application of	:	
Ando et al.	:	
Application No. 11/153,757	:	LETTER REGARDING
Filed: June 14, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. PC32560A	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705 filed on March 9, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred fifty-three (353) days, not three hundred seventy-eight (378) as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is three hundred fifty-three (353) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 353 days.

On December 8, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is three hundred seventy-eight (378) days. The instant request for review of patent term adjustment was timely filed.[1]

Applicants state that the PTA calculation should be reduced by 25 days. Specifically, applicants state that the filing of a

[1] PALM records indicate that the issue fee was paid on Monday, March 9, 2009.

supplemental Information Disclosure Statement (IDS) filed on June 3, 2008, after filing of a request for continued examination on May 9, 2008, may have been omitted from the PTA calculation.

Upon review, applicants are correct. On May 9, 2008, a request for continued examination (RCE) and submission was filed in response to a notice of allowance mailed on February 12, 2008. On June 3, 2008, 25 days after the filing of the (RCE) and submission a supplemental IDS was filed.

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Accordingly, a period of reduction of 25 days will be entered.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **three hundred fifty-three (353) days** (378 days of PTO delay, reduced by 25 days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and will be refunded.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the

issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Olesia Brown f/

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Monday
Date: 8/24/2009

PALM INTRANET

Time: 09:05:14

PTA Calculations for Application: 11/153757			
Application Filing Date:	06/14/2005	PTO Delay (PTO):	378
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	353
PTO Delay Adjustment:	-25		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	08/24/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
74	12/08/2008	MAIL NOTICE OF ALLOWANCE			
73	12/04/2008	ISSUE REVISION COMPLETED			
72	12/04/2008	DOCUMENT VERIFICATION			
71	12/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	11/25/2008	NOTICE OF ALLOWABILITY			
69	10/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	10/20/2008	REFERENCE CAPTURE ON IDS			
67	10/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	11/05/2008	DATE FORWARDED TO EXAMINER			
65	10/20/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
64	11/05/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
63	10/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	10/20/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
61	07/21/2008	EXPORT TO INITIAL DATA CAPTURE			
60	07/22/2008	ELECTRONIC REVIEW			
59	07/22/2008	EMAIL NOTIFICATION			
58	07/22/2008	MAIL NOTICE OF ALLOWANCE			
57	07/18/2008	ISSUE REVISION COMPLETED			
56	07/18/2008	DOCUMENT VERIFICATION			
55	07/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

54	07/16/2008	NOTICE OF ALLOWABILITY			
53	05/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	06/03/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	06/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	05/09/2008	REFERENCE CAPTURE ON IDS			
49	05/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	06/05/2008	DATE FORWARDED TO EXAMINER			
47	05/09/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	06/05/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	06/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	05/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	04/09/2008	FINISHED INITIAL DATA CAPTURE			
41	02/15/2008	EXPORT TO INITIAL DATA CAPTURE			
40	02/15/2008	ELECTRONIC REVIEW			
39	02/13/2008	EMAIL NOTIFICATION			
38	02/12/2008	MAIL NOTICE OF ALLOWANCE			
37	02/08/2008	ISSUE REVISION COMPLETED			
36	02/08/2008	DOCUMENT VERIFICATION			
35	02/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	02/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
33	02/08/2008	NOTICE OF ALLOWABILITY			
32	01/28/2008	PARALEGAL TD NOT ACCEPTED			
31	01/28/2008	PARALEGAL TD NOT ACCEPTED			
30	01/24/2008	DATE FORWARDED TO EXAMINER			
29	01/09/2008	RESPONSE AFTER NON-FINAL ACTION			
28	01/23/2008	PARALEGAL TD NOT ACCEPTED			
27	01/23/2008	PARALEGAL TD NOT ACCEPTED			
26	10/19/2007	MAIL NON-FINAL REJECTION			
25	10/16/2007	NON-FINAL REJECTION			
24	10/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

23	10/02/2007	DATE FORWARDED TO EXAMINER			
22	09/27/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
21	08/27/2007	MAIL RESTRICTION REQUIREMENT	378		-1
20	08/23/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
17	01/04/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	01/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	08/29/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	06/14/2005	PRELIMINARY AMENDMENT			
13	10/05/2005	REFERENCE CAPTURE ON IDS			
12.7	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/07/2005	APPLICATION RETURN FROM OIPE			
10	09/07/2005	APPLICATION IS NOW COMPLETE			
9	09/07/2005	APPLICATION RETURN TO OIPE			
8	09/07/2005	APPLICATION DISPATCHED FROM OIPE			
7	09/07/2005	APPLICATION IS NOW COMPLETE			
6	08/29/2005	ADDITIONAL APPLICATION FILING FEES			
5	08/29/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	07/12/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	07/08/2005	CLEARED BY OIPE CSR			
2	06/24/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/14/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Gerald F. Swiss
Foley & Lardner LLP
1530 Page Mill Road
Palo Alto, CA 94304

In re Application of	:	
David Perry, et al.	:	
Application No. 11/153,765	:	DECISION ON PETITION
Filed: June 14, 2005	:	TO WITHDRAW
Attorney Docket No. 064507-5011US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 27, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer No. 38796 has been revoked by the assignee of the patent application on September 26, 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 Cheryl Gibson-Baylor at (571)272-3213. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO CA 94306

cc: Jeffry S. Mann, Ph.D., J.D.
Morgan Lewis and Bockius
One Market, Spear Street Tower
San Francisco, CA 94105

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MCNAIR LAW FIRM, P.A.
P.O. BOX 10827
GREENVILLE SC 29603-0827

In re Application of	:	
John Bryan Beatenbough et al	:	
Application No. 11/153,796	:	DECISION GRANTING PETITION
Filed: June 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 032037.00015	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 14, 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 3744 for processing of 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 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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In re Application of :
John Bryan Beatenbough et al :
Application No. 11/153,796 : DECISION ON PETITION
Filed: June 15, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 032037.00015 :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed January 23, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application. While a reference to the prior-filed nonprovisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed application in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, petitioner may request a refund of the $1,410 petition fee by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3744 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed Application No. 10/848,764.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Group 3700

CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

In re Application of: KELLY W. CUNNINGHAM :
Appl. No.: 11/153,803 : DECISION ON PETITION to
Filed: 06/14/2005 : make SPECIAL under 37 CFR
For: CONTACT CLOSURE ASSEMBLY : 1.102

This is a decision on the petition filed on 06/14/2005 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; c) a statement that a pre-examination search has been made in Class 215, subclasses 44,217,224,225,250,252,277,317,318,329,331,333,336,339,340,354; d) a copy of each refererence /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. However, the petition does not 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 states that all claims are directed to a single invention or that applicant will make an election without traverse of claim 1 and all dependent and other claims should the Office make a restriction requirement. It is the Office that would determine if and how any claims subject to a requirement for restriction would

be grouped; therefore, applicant may not specify any particular claim(s) prior to any such requirement for restriction being made by the Office. Because the petition states an intention to elect a particular claim(s) rather than a general statement of an intention to elect without traverse in response to a requirement for restriction, it fails to meet the requirements of MPEP § 708.02(VIII)(b).

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." Each independent claim must be compared to each of the references. In an effort to show how the claims distinguish the prior art petitioner has recited claim limitations including language that is common to each of the independent claims and compared that language to each reference; however, it is not clear which claim is being compared to a particular reference; therefore, petitioner's statement 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: a general statement that applicant will elect without traverse if the Office determines that all the claims are not obviously directed to a single invention; and 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.
Any inquiry regarding this decision should be directed to Aaron J. Lewis, Primary Examiner at (571) 272-4795.
Petition DISMISSED

Aaron J. Lewis, Detailee in the Office of Special Program Examiner
Technology Center 3700 -- Mechanical Engineering,
Manufacturing and Products

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CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

mailed 1/5/07

In re Application of: CUNNINGHAM, KELLY W. :
Appl. No.: 11/153,803 :
Filed: Jun. 14, 2005 :
For: CONTAINER CLOSURE ASSEMBLY :

DECISION ON PETITION to make SPECIAL under 37 CFR 1.102

This is a decision on the Jul. 27, 2006 request for reconsideration of the petition filed on Jun. 26, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is 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 Henry Yuen at 571-272-4856.

Petition GRANTED

Henry C. Yuen, Special Program Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products

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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Julie A. Willets	: DECISION ON REQUEST FOR
Patent Number	: 7629707	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1150** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Hugh R. Kress
Browning Bushman P.C.
Suite 1800
5718 Westheimer
Houston, TX 77057

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In re Application of Gunter et al. :
Application No. 11/153,814 :
Filing Date: June 13, 2006 :
Attorney Docket No. MEDELECTIC-1/US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

The application was filed June 13, 2006.

The transmittal letter incorrectly listed the "5718" portion of the correspondence as "5178."

A filing receipt was mailed August 1, 2005. The filing receipt was returned undelivered.

A Notice to File Corrected Application Papers was mailed August 1, 2005. The Notice was returned undelivered.

The Notice to File Corrected Application Papers 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 October 2, 2005.

A Notice of Abandonment was mailed on April 17, 2006.

The Notice of Abandonment was returned undelivered.

A copy of all the papers mailed to petitioner is attached to this decision.

The address of record has been corrected in Office records.

Discussion:

Petitioner requests the application be revived pursuant to 37 CFR 1.137(b).
A grantable petition under 37 CFR 1.137(b) must be accompanied by the required reply to the Notice to File Corrected Application Papers.

Petitioner should file a request for reconsideration and corrected, replacement drawings.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are 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.

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

Attached: Copies of papers previously mailed to the incorrect address of record

FEB 16 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/153,814	06/15/2005	3762	900	MEDLECTRIC-1/US	7	36	2

CONFIRMATION NO. 8803

Hugh R. Kress
Browning Bushman P.C.
Suite 1800
5178 Westheimer
Houston, TX 77057

FILING RECEIPT

OC000000016667891

Date Mailed: 08/01/2005

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

Applicant(s)

M. Lee Gunter, League City, TX;
Michael Distler, Kemalt, TX;
Viktoriya V. Gunter, League City, TX;

Assignment For Published Patent Application

Med-Lectric Corporation

Power of Attorney:

Hugh Kress--36574

Domestic Priority data as claimed by applicant

Foreign Applications

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

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Interactive transcutaneous electrical nerve stimulation device

Preliminary Class

607

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).

FEB 16 2007

PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/153,814	06/15/2005	M. Lee Gunter	MEDLECTRIC-1/US

CONFIRMATION NO. 8803

FORMALITIES LETTER

OC000000016667892

Hugh R. Kress
Browning Bushman P.C.
Suite 1800
5178 Westheimer
Houston, TX 77057

Date Mailed: 08/01/2005

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR 1.84(l) and (p)(1)); See Figure(s) 6, 7.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

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
11/153,814	06/15/2005	M. Lee Gunter	MEDLECTRIC-1/US

CONFIRMATION NO. 8803

ABANDONMENT/TERMINATION LETTER

Hugh R. Kress
Browning Bushman P.C.
Suite 1800
5178 Westheimer
Houston, TX 77057

Date Mailed: 04/17/2006

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 08/01/2005.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);

2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or

3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-

identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382

PART 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARNOLD & FERRERA LLP
HUGH R. KRESS
SUITE 630
2401 FOUNTAINVIEW
HOUSTON, TX 77057

COPY MAILED

APR 13 2007

OFFICE OF PETITIONS

In re Application of Gunter et al. :
Application No. 11/153,814 : Decision on Petition
Filing Date: June 13, 2006 :
Attorney Docket No. MEDELECTIC-1/US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2007, to revive the above-identified application.

The petition is **granted**.

A Notice to File Corrected Application Papers was mailed August 1, 2005. The Notice to File Corrected Application Papers 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 October 2, 2005. A Notice of Abandonment was mailed on April 17, 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARNOLD & FERRERA LLP
ATTN: HUGH R. KRESS
2401 FOUNTAINVIEW, SUITE 630
HOUSTON TX 77057

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MAY 22 2007
OFFICE OF PETITIONS

In re Application of	:	
GUNTER, et al.	:	
Application No. 11/153,814	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. MEDLECTRIC-1/US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 5, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition does not include evidence such as a doctor's certificate or other medical certificate attesting that the applicant's health is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course.

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).

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 the undersigned at 571-272-7253.

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

The application is being forwarded to the Technology Center Art Unit 3762 for action in its regular turn.

Monica A. Graves
Petitions Examiner
Office of Petitions

Conferee:
Amelia Au

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOLER LAW GROUP
8500 BLUFFSTONE COVE
SUITE A201
AUSTIN TX 78759

COPY MAILED
SEP 19 2008

In re Application of
Dennis Bicker
Application No. 11/153,853
Filed: June 15, 2005
Title: VOIP Music Conferencing System

ON PETITION

This is a decision on the petition, filed July 3, 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 to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of September 24, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on November 30, 2007. A Notice of Abandonment was mailed on June 9, 2008.

Petitioner asserts that he spoke to Examiner Fletcher and he was informed that the application was in condition for allowance but the case had been overlooked. Petitioner requests that the holding of abandonment be withdrawn and a Notice of Allowance be issued.

A review of the Office record shows that the Office received the amendment after final Office Action on November 30, 2007. The Notice of abandonment shows that the

application went abandoned not for the failure to reply to the final Office Action, but because the amendment submitted on November 30, 2007 failed to place the application in condition for allowance.

Pursuant to 37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:

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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOLER LAW GROUP
8500 BLUFFSTONE COVE
SUITE A201
AUSTIN TX 78759

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NOV 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Dennis Dale Bicker	:	
Application No. 11/153,853	:	DECISION ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 1033-IT1077	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of September 24, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office was filed on November 30, 2007. Accordingly, this application became abandoned on December 24, 2007. A Notice of Abandonment was mailed on June 9, 2008. A petition under 37 CFR 1.181 filed July 3, 2008 was dismissed on September 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 2837 appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 12 2006
OFFICE OF PETITIONS

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, California 94303

In re Application of	:	
Lawrence M. Blatt et al.	:	
Application No. 11/153,864	:	DECISION ON PETITION
Filed: June 14, 2005	:	TO WITHDRAW
Attorney Docket No. INTM-038	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

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

A review of the file record indicates that the power of attorney to Paula Borden and those practitioners associated whit customer number 24353 have been revoked by the assignee of the patent application on August 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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: COOLEY GODWARD LLP
THE BROWN BUILDING - 875 15TH STREET, NW
SUITE 800
WASHINGTON, DC 20005-2221

UNITED STATES 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 HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

COPY MAILED

APR 24 2008

In re Patent No. 7355027	:	
Issue Date: 04/08/2008	:	
Application Number: 11/153865	:	NOTICE
Filing or 371(c) Date: 06/15/2005	:	
Attorney Docket Number: HPF-001.01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on April 8, 2008.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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JAN 30 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Lu et al.	:	
Application No. 11/153,911	:	
Filed: June 16, 2005	:	
Attorney Docket No. R2180.0270/P270	:	

This is a decision in response to the papers filed September 29, 2005, which are being treated as a petition under 37 CFR 1.182.

The petition is **dismissed**.

The application was filed on June 16, 2005. On June 29, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of June 15, 2005, and advising applicants that Figures 3A and 3B appeared to have been omitted.

The Notice gave petitioner three options:

(1) file a petition contending and proving the missing items were in fact filed with the original application,
(2) supply the missing items and file a petition request the filing date be the date the missing items are filed, or
(3) take no action and constructively accept the application as originally filed without the missing items.

The papers filed on September 29, 2005, include a copy of a drawing sheet which contains Figures 3A and 3B. The papers do not include a petition. Petitioner has simply submitted a copy of the missing items. Petitioner does not allege or prove the missing items were filed with the original application. Petitioner does not ask for a later filing date. The exact relief being requested is unclear.

For the reasons above, the petition cannot be granted. The missing drawing figures will not be entered.

Petitioner's future options:

(1) Petitioner's first option is to simply prosecute the application without the missing drawing figures. If this option is chosen, a petition is not required. However, this option will necessitate petitioner amending the specification to delete references to the missing drawing figures.

(2) If petitioner has evidence, such as a postcard receipt, to establish the missing figures were in fact filed as part of the application, petitioner can file a petition proving the missing figures were filed with the original application. The petition fee is $400. The fee is refunded if the petition is granted.

(3) Petitioner can file a petition requesting a filing date as of the date a copy of the missing figures was submitted to the Office. In this case, the date would be September 29, 2005. The petition fee would be $400.

(4) Petitioner may seek to add the drawing figures by preliminary amendment and contend the drawing figures are not new matter. If this step is taken, a petition is unnecessary. The examiner will determine if the amendment contains new matter.

Even if the specification alone does not give adequate support for the amendment, the amendment *might* not add new matter. As a courtesy, the Office notes the first sentence of the specification incorporates by reference Japanese Patent Application No. 2004-178883 filed June 16, 2004. It is possible the drawing figures could be entered as a result of the incorporation by reference. A review of the drawings in the Japanese application indicates the presence of drawing figures almost identical to the missing drawing figures. A copy of the drawing sheet is attached. Petitioner may be able to demonstrate the missing material was completely contained in the foreign application. If petitioner relies on the incorporation by reference, the amendment should identify the specific locations of the missing subject matter in the foreign application and be accompanied by a translation of the Japanese application.

(5) Petitioner may file a petition requesting the drawing sheet in the foreign priority document be considered part of the originally filed application. Since the foreign priority document was filed with the application papers, such relief may be granted upon petition. This option results in a copy of the foreign drawing sheet being treated as if it had been filed as part of the drawings with the instant application on June 16, 2005. The petition should be accompanied by a literal translation of the drawing sheet which will be used for examination purposes. The Office notes that the examiner has the discretion to later request a translation of the *entire* priority document. The petition fee is $400.

If petitioner desires for the literal English translation of the figures to be altered (such as rephrasing language or relabeling a drawing), petitioner may submit an amendment to the drawings. Any such amendment will, of course, be reviewed by the examiner for new matter.

Any request for reconsideration 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

If a request for reconsideration is not filed, then the application will consist only of the papers received on June 16, 2005, and will not include Figures 3A or 3B filed with the instant petition.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Copy of drawing sheet from Japanese Patent Application No. 2004-178883 filed June 16, 2004.

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OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

In re Application of	:	
Lu et al.	:	
Application No. 11/153,911	:	ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. R2180.0270/P270	:	

This is a decision on the petition filed February 27, 2006, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that Figures 3A and 3B were part of the originally filed application.

The application was filed on June 16, 2005. On June 29, 2005, a Notice was mailed stating that Figures 3A and 3B described in the specification did not appear to be included as part of the application filed.

Upon review of the record, the drawing sheet containing Figures 3A and 3B, filed on June 16, 2005, has been located. Therefore, Figures 3A and 3B were part of the originally filed application.

In view of the above, the petition is **granted**.

A refund of the $400 petition fee will be scheduled.

The Notice mailed June 29, 2005, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of the instant decision and will take any necessary steps to ensure the application is processed with all the originally filed drawings including the drawing sheet containing Figures 3A and 3B.

Telephone inquiries 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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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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OFFICE OF PETITIONS

In re Patent of Forbes et al. :
Patent No. 7,681,506 :
Issue Date: March 23, 2010 :
Application No. 11/153,913 : ON APPLICATION FOR
Filed: June 16, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 200405.00110 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b) filed January 13, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is one thousand ninety-five (1,095) days, not four hundred thirty (430) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

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

The instant petition was filed on January 13, 2010, prior to the March 23, 2010 issuance of the patent. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years.
See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office could not make

a determination on the correctness of the patent term adjustment until the patent issued.

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

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).

It is noted that Patent No. 7,681,506 issued on March 23, 2010 with a revised patent term adjustment of 1,058 days. If patentees are dissatisfied with the amount of revised patent term adjustment, patentees should file a petition under 37 CFR 1.705(d) within two months of the patent's issue date.

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

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2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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OFFICE OF PETITIONS

In re Application of

HEGGEMAN, Richard A.
Application No. 11/153,929
Filed: June 15, 2005
Attorney Docket No. **60098-0012**

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 04, 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, applicant has chosen to prosecute this matter pro se does not meet of 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 Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **RICHARD A. HEGGEM**
411A WRIGHT AVENUE
MORGAN HILL, CA 95037

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OFFICE OF PETITIONS

In re Application of George J. Despotis Application No. 11/153,941 Filed: June 16, 2005 Attorney Docket No. D0926.00002	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 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 declaration and surcharge fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of July 14, 2005, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $795 extension of time submitted with the petition on May 15, 2007 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O. BOX 450A
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

In re Application of
Asher Pearl
Application No. 11/153,953
Filed: June 16, 2005
Attorney Docket No. PDC/CD/9293

ON PETITION

This is a decision on the petition filed May 12, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed February 8, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 9, 2008.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Leonard Forbes	: DECISION ON REQUEST FOR
Patent Number	: 7602009	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **68** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Pinnow et al.	:	
Application No. 11/153,964	:	DECISION ON PETITION
Filed: June 16, 2005	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
I433.169.101/13.676	:	
Title: METHOD FOR PRODUCING	:	
MEMORY HAVING A SOLID	:	
ELECTROLYTE MATERIAL REGION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed July 27, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 23, 2008, 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 January 24, 2009. A notice of abandonment was mailed on May 11, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, 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 of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on July 27, 2009 can be processed in due course.

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

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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Morristown NJ 07962-2245

In re Application of	:	
Ganev et al.	:	DECISION ON APPLICATION
Application No. 11/153,973	:	FOR PATENT TERM ADJUSTMENT
Filed: June 15, 2005	:	
Docket No. H0009963-3140	:	

This is a decision on the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE" filed January 22, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 102 days to 442 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred and forty-two **(442)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On December 12, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 102 days. On January 22, 2009, applicants timely submitted the instant application for patent term adjustment.[1]

The period of 442 days of Office delay is not in dispute.

Applicants dispute the period of reduction of 340 days for the filing of an Information Disclosure Statement (IDS) on

[1] Office finance records indicate that the issue fee payment was received on January 30, 2009.

August 22, 2006. Applicants contend that it was erroneous for the "PTA calculator (to have) generated an Applicant delay of 340 days for the filing of an IDS under 37 C.F.R. § 1.704(d)."[2]

Pursuant to 37 CFR 1.704(c)(8), the 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, is a failure to engage in reasonable efforts to conclude prosecution.

The record shows that the non-final Office action, mailed on October 30, 2007, was the first notification under 35 U.S.C. § 132. The record further reveals that the IDS was filed on August 22, 2006, prior to the mailing of the non-final Office action. The IDS was not filed as a supplemental paper within the meaning of 37 CFR 1.704(c)(8). Accordingly, the period of reduction of 340 days for the filing of the IDS on August 22, 2006, has been removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 442 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 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 Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl. Copy of updated PALM screen

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[2] Petition, page 1.

Day : Saturday
Date: 8/29/2009

PALM INTRANET

Time: 13:30:38

PTA Calculations for Application: 11/153973			
Application Filing Date:	06/15/2005	PTO Delay (PTO):	442
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	340
Post-Issue Petitions:	0	Total PTA (days):	442
PTO Delay Adjustment:	340		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	08/29/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	340		
37	12/12/2008	MAIL NOTICE OF ALLOWANCE			
36	12/09/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	12/09/2008	ISSUE REVISION COMPLETED			
34	12/09/2008	DOCUMENT VERIFICATION			
33	12/09/2008	EXAMINER'S AMENDMENT COMMUNICATION			
32	12/08/2008	NOTICE OF ALLOWABILITY			
31	11/21/2008	AMENDMENT AFTER FINAL REJECTION			
30	11/26/2008	DATE FORWARDED TO EXAMINER			
29	11/21/2008	AMENDMENT AFTER FINAL REJECTION			
28	10/20/2008	MAIL FINAL REJECTION (PTOL - 326)	1		25
27	10/14/2008	FINAL REJECTION			
26	08/05/2008	DATE FORWARDED TO EXAMINER			
25	06/19/2008	RESPONSE AFTER NON-FINAL ACTION			
24	04/15/2008	MAIL NON-FINAL REJECTION			
23	04/14/2008	NON-FINAL REJECTION			
22	01/19/2008	DATE FORWARDED TO EXAMINER			
21	12/21/2007	RESPONSE AFTER NON-FINAL ACTION			
20	10/30/2007	MAIL NON-FINAL REJECTION	441		-1
19	10/27/2007	NON-FINAL REJECTION			
17	08/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	06/15/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15.7	08/22/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		340	9

15	08/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	06/15/2005	REFERENCE CAPTURE ON IDS			
12.7	06/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/23/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	02/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	09/16/2005	APPLICANT RESPONSE RECEIVED			
8	09/01/2005	REQUEST FOR APPLICANT STATEMENT REGARDING POTENTIAL NASA INTEREST (45-DAY LETTER) MAILED			
7	08/01/2005	APPLICATION DISPATCHED FROM OIPE			
6	08/02/2005	APPLICATION IS NOW COMPLETE			
5	07/27/2005	CLEARED BY L&R (LARS)			
4	07/27/2005	REFERRED FOR NASA PROPERTY RIGHTS REVIEW BY L&R LARS			
3	06/28/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	06/22/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/15/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PATENT SERVICES
101 Columbia Road
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Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Evgeni Ganev	: DECISION ON REQUEST FOR
Patent Number	: 7595971	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/153,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **912** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KARL M. STEINS
STEINS & ASSOCIATES
SUITE 120
2333 CAMINO DEL RIO SOUTH
SAN DIEGO CA 92108

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JUL 06 2010
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In re Application of	:	
Underwood, Patrick	:	
Application No. 11/154,001	:	ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. UND3-G86	:	

This is a decision on the petition under 37 CFR 1.137(a), filed October 23, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The instant application became abandoned on September 3, 2007 for failure to timely and properly respond to the Notice of Non-Complaint Amendment (37 CFR 1.121) (Notice), mailed August 2, 2007. A Notice of Abandonment was mailed March 20, 2008.

The Notice stated the Amendment submitted July 26, 2007 was non-compliant because the drawings submitted concurrently were not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d). However, it appears the Notice was issued in error because the drawings were not "amendments to the drawings," but rather, they were part of the applicant's 37 CFR 1.131 declaration.

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 amendment (previously filed on July 26, 2007); (2) the petition fee of $270.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This matter is being referred to Technology Center AU 3723 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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Kathy Manke
Avago Technologies Limited
4380 Ziegler Road
Fort Collins CO 80525

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MAR 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary B. Gordon, et al.	:	
Application No. 11/154,007	:	DECISION GRANTING PETITION
Filed: June 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10980359-13	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kathy Manke
Avago Technologies Limited
4380 Ziegler Road
Fort Collins CO 80525

MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary B. Gordon et al.	:	
Application No. 11/154,007	:	DECISION GRANTING PETITION
Filed: June 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10980359-13	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 16, 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 July 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PORTER, WRIGHT, MORRIS AND ARTHUR LLP
41 S. HIGH STREET
COLUMBUS OH 43215

COPY MAILED

APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Randle et al.	:	
Application No. 11/154,033	:	DECISION ON PETITION
Filed: June 15, 2005	:	
Attorney Docket No. 3994893-139698	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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). Accordingly, since the $460.00 extension of time fee submitted with the petition on March 14, 2008, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 2139 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

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NOV 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
James Lowe et al.	:	
Application No. 11/154,037	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. 81094068	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2008, supplemented on September 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 20, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 21, 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 $1540, and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

This application is being referred to Technology Center AU 3726 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Larry W. Miller
25 Stevens Avenue
West Lawn, PA 19609

PTO/SB/64 (08-08)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional) 81094068

First named inventor: James Lowe

Application No.: 11/154,037 Art Unit: 3726

Filed: June 6, 2005 Examiner: John C. Hong

Title: Single Set Geometry Method for Assembly of a Vehicle

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 $ 1,540.0 (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 (identify type of reply):

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

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

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

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

/Larry W. Miller/	09/26/2008
Signature	Date
Larry W. Miller	29,417
Typed or printed name	Registration Number, if applicable
25 Stevens Avenue	610-670-9000
Address	Telephone Number
West Lawn, PA 19609	
Address	

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

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

11/154037 Examiner: HONG, JOHN GAU: 3726
Inventor: LOWE , JAMES, et al Classification: 029/900.000
Status: 71 - RESPONSE TO NON-FINAL OFFICE ACTION ENTERED AND FORWARDED TO EXAMINER
Title: SINGLE SET GEOMETRY METHOD FOR ASSEMBLY OF A VEHICLE
Start Date: End Date:

bib_fee report (8 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
09/26/2008	12412	4	1453	$1,540.00	09/26/2008	DA 061510
09/19/2006	115	3	8007	$20.00	09/15/2006	DA 061510
06/22/2006	369	3	8007	$20.00	06/22/2006	DA 061510
06/22/2005	213	1	8021	$40.00	06/16/2005	DA 061510
06/22/2005	214	1	8021	$40.00	06/16/2005	DA 061510
06/20/2005	237	1	1011	$300.00	06/16/2005	DA 061510
06/20/2005	238	1	1111	$500.00	06/16/2005	DA 061510
06/20/2005	239	1	1311	$200.00	06/16/2005	DA 061510

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 29, 2007

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction for Appl. No. 11/154060 patent no.7132871

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Changes to drawings are approved.

SPE

2816
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/17/07

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/154061** Patent No.: **7153195**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Corrections are acceptable

SPE

2816
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
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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Deaver et al.	:	
Application No. 11/154,067	:	DECISION ON PETITION
Filed: June 14, 2005	:	UNDER 37 CFR 1.78(a)(3)
Atty Docket No. PSU 1813 CON(3)	:	and
	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the PETITION UNDER 37 C.F.R. § 1.78(a)(3) TO ACCEPT AN UNINTENTIONALLY DELAYED PRIORITY CLAIM, filed August 14, 2007, for the benefit of priority to prior-filed application No. 08/810,275 set forth in the currently filed amendment. In light of the benefit claims set forth in the amendment, the petition is also being treated under 37 C.F.R. § 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional application No. 60/012,721.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, 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 37 CFR 1.78(a)(5)(ii), respectively, and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

A reference to the prior-filed nonprovisional and provisional applications has been included in an amendment to the first sentence of the specification following the title and in an unexecuted Application Data Sheet, as required by 37 CFR 1.78(a)(2)(iii).

The application data sheet is not executed. Petitioner is reminded that any ADS filed after the application filing date must be executed and must be entitled supplemental ADS. Nonetheless, the reference to the prior applications as required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a) have been submitted in an amendment. See 37 CFR 1.78(a)(2)(iii) and (5)(iii).

This pending nonprovisional application was filed on June 14, 2005. The filing date of provisional application No. 60/012,721, for which priority is claimed is March 4, 1996, and thus, was filed within twelve months of intermediate application No. 08/810,275, filed March 3, 1997, of which this application claims to be a continuation-in-part. Further, the claim for benefit of priority under 35 U.S.C. § 119(e) was made in 08/810,275 during the pendency of the application (before the application issued as a patent).

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and (a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed

applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and §§119(e) and 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1615 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) of the prior-filed applications as set forth in the amendment filed August 14, 2007.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/154,067	06/14/2005	1615	725	PSU 1813 CON (3)	24	3

CONFIRMATION NO. 9171

CORRECTED FILING RECEIPT

OC000000026015311

23579
PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

Date Mailed: 09/26/2007

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)

Daniel R. Deaver, Franklin, MA;
David A. Edwards, Boston, MA;

Assignment For Published Patent Application

The Penn State Research Foundation

Power of Attorney: The patent practitioners associated with Customer Number **23579**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/717,251 11/19/2003 PAT 6,908,623
which is a CON of 10/120,940 04/10/2002 PAT 6,652,873
which is a CON of 09/412,821 10/05/1999 PAT 6,387,390
which claims benefit of 60/103,117 10/05/1998
This application 11/154,067
is a CIP of 08/810,275 03/03/1997 PAT 5,985,320
which claims benefit of 60/012,721 03/04/1996

Foreign Applications

If Required, Foreign Filing License Granted: 07/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US11/154,067

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Compositions and methods for enhancing receptor-mediated cellular internalization

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.

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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176 EAST MAIN STREET, SUITE 7
WESTBORO MA 01581

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
PURSER, et al.	:	
Application No. 11/154,085	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **527P019CONT.**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 15, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the affidavit of inventor Kenneth H. Purser, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2881 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIELDS & LEMACK
176 EAST MAIN STREET, SUITE 7
WESTBORO MA 01581

COPY MAILED

JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
PURSER, et al.	:	
Application No. 11/154,085	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **527P019CONT.**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 15, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the affidavit of inventor Kenneth H. Purser, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2881 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Paper No.

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MAR 30 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,449,184	:	
Madsen et al.	:	DECISION DISMISSING
Application No. 11/154,091	:	REQUEST FOR
Issue Date: November 11, 2008	:	RECONSIDERATION OF
Filed: June 15, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: P2202R1	:	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 December 18, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred and twenty-one (121) to two hundred and seventy (270) 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 –
> (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 –

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(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]:

---

[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,

(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

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 November 11, 2008, the application matured into U.S. Patent No. 7,449,184, with a revised patent term adjustment of 121 days.

On December 18, 2008, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee) within two months of the issue date of the patent. Patentees argue, citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), that it is entitled to a total patent term adjustment of 270 days, which is the sum of the 149 days of patent term adjustment due to exceeding the three year pendency plus 182 days due to USPTO delay in prosecution, minus the 61 days of applicant delay.

It is noted that the instant patent issued 3 years and 149 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the

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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.

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 149 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 182 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 182 days.

In view thereof, the patent issued with a revised patent term adjustment of 121 (182 - 61) days.

The period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 149 days.[4] This 149 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on June 15, 2005, and the patent having not issued until November 11, 2008, three years and 149 days later. In short, patentees do not agree with the Office's determination that the period of delay of 149 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 182 days attributable to grounds specified in § 1.702(a)(1).

The period of reduction of 61 days for applicant delay is not in dispute.

Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (149 days) and the period of Examination Delay (182 days) less the period of Applicant Delay (61 days) to the extent that these periods of delay are not overlapping. Pursuant to Wyeth, patentees maintain that the periods of delay do not overlap.

As such, patentees assert entitlement to a patent term adjustment of 270 days (149 + 182 reduced by 61).

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[4] See petition, page 2, paragraph 5.

The Office agrees that the patent issued 3 years and 149 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 182 days for Office delay and 61 days for Applicant delay are correct. At issue is whether the period of delay of 149 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 182 days attributable to grounds specified in § 1.702(a)(1).

The Office maintains that the period of 149 attributable to delay in issuance of the patent overlaps with the 182 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 (June 15, 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 June 15, 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, June 15, 2005 to November 11, 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 182 days, not 182 + 149 days. The Office took 14 months and 182 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37

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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).

C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 182 days of Office delay and the 61 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 149 days after its filing date. The Office did not delay 182 days and then an additional 149 days. Accordingly, 182 days of patent term adjustment (not 182 and 149 days) was properly entered since the period of delay of 149 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 182 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 182 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 149 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 121 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

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South San Francisco CA
94080

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APR 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,449,184	:
Allsion et al.	: DECISION UPON REMAND AND
Issue Date: November 11, 2008	: RECONSIDERATION OF
Application No. 11/154,091	: PATENT TERM ADJUSTMENT
Filed: June 15, 2005	: AND NOTICE OF INTENT
Attorney Docket No. P2202R1	: TO ISSUE CERTIFICATE OF
Title: Fixing Dosing of Her	: CORRECTION
Antibodies	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by two hundred and seventy (270) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred and seventy (270) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,449,184 B2

DATED : November 11, 2008 **DRAFT**

INVENTOR(S) : Allison 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 191 days

Delete the phrase "by 191 days" and insert – by 648 days--

PALM INTRANET

Day : Friday
Date: 4/9/2010
Time: 14:03:40

PTA Calculations for Application: 11/154091			
Application Filing Date:	06/15/2005	PTO Delay (PTO):	182
Issue Date of Patent:	11/11/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	61
Post-Issue Petitions:	0	Total PTA (days):	270
PTO Delay Adjustment:	149		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	04/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	149		
69.5	10/22/2008	PTA 36 MONTHS			
69	11/11/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
68	10/10/2008	EXPORT TO FINAL DATA CAPTURE			
67	10/09/2008	DISPATCH TO FDC			
66	10/08/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
65	10/02/2008	ISSUE FEE PAYMENT VERIFIED			
64	10/02/2008	ISSUE FEE PAYMENT RECEIVED			
63	09/08/2008	FINISHED INITIAL DATA CAPTURE			
62	07/21/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
61	07/14/2008	RECEIPT INTO PUBS			
60	07/07/2008	EXPORT TO INITIAL DATA CAPTURE			
59	07/03/2008	MAIL NOTICE OF ALLOWANCE			
58	07/02/2008	ISSUE REVISION COMPLETED			
57	07/02/2008	DOCUMENT VERIFICATION			
56	07/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	07/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
54	06/20/2008	NOTICE OF ALLOWABILITY			
53	04/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	04/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	04/28/2008	REFERENCE CAPTURE ON IDS			
46	04/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	44

45	05/22/2008	DATE FORWARDED TO EXAMINER			
44	04/28/2008	RESPONSE AFTER NON-FINAL ACTION			
43	04/28/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	04/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	04/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	01/28/2008	MAIL NON-FINAL REJECTION			
39	01/22/2008	NON-FINAL REJECTION			
37	11/05/2007	REFERENCE CAPTURE ON IDS			
36	11/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		3	34
35	11/07/2007	DATE FORWARDED TO EXAMINER			
34	11/02/2007	RESPONSE AFTER NON-FINAL ACTION		58	31
33	11/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	06/05/2007	MAIL NON-FINAL REJECTION			
30	05/29/2007	NON-FINAL REJECTION			
29	01/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	01/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	05/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	07/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	02/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	03/21/2007	DATE FORWARDED TO EXAMINER			
23	03/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
22	02/23/2007	REFERENCE CAPTURE ON IDS			
21.7	02/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	02/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/13/2007	MAIL RESTRICTION REQUIREMENT	182		-1
19	02/05/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
18	01/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
17.7	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

17	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	05/31/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15.7	05/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	05/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/17/2006	REFERENCE CAPTURE ON IDS			
13.7	01/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	01/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	01/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/04/2005	APPLICATION DISPATCHED FROM OIPE			
10	10/04/2005	APPLICATION IS NOW COMPLETE			
9	09/14/2005	ADDITIONAL APPLICATION FILING FEES			
8	09/14/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	08/15/2005	CLEARED BY L&R (LARS)			
5	06/29/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	06/29/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	06/24/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	06/15/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/15/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Mohamed K. Diab, et. al.
Application No. 11/154,093
Filed: June 15, 2005
For: **SIGNAL PROCESSING APPARATUS**

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed November 21, 2005, 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 the Information Disclosure Statement, filed November 21, 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, 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 in question will not be available to the public during prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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John M. Grover
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

JAN 08 2007

In re Application of: DAIB et al.	:
Appl. No.: 11/154093	: DECISION ON PETITION
Filed: June 15, 2005	: Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS	:

This is a response to the petition under 37 CFR 1.59(b), filed on November 21, 2005 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement filed November 21, 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 on any patent which issues on the above-identified application.

The expunged material has been removed from the official file. The material has been closed from public view in the electronic file wrapper.

Petition to expunge GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090514

DATE : May 14, 2009

TO SPE OF : ART UNIT 3768

SUBJECT : Request for Certificate of Correction on Patent No.: 7215986

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:

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-9-07

TO SPE OF : Technology Center 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 11/154114 7167033B2

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.

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

Comments:

_____

_____

_____

_____

_____

SPE — 2816 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-9-07

TO SPE OF : Technology Center 2816

11/154114

SUBJECT : Request for Certificate of Correction on Patent No.: 7167033 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

Thank You For Your Assistance

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.

- [x] **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** 2816

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Paul, Hastings, Janofsky & Walker LLP
875 15th Street, NW
Washington, DC 20005

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:	
C.M. Wong	:	
Application No. 11/154,125	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. 73477.00012.UTL1	:	FROM RECORD
	:	

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 19, 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 Trevor Q. Coddington 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 October 6, 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: **C.M. Wong**
Apt. 802, 80 Alton Towers Circle
Scarborough, Ontario M1V 5E8
Canada

cc: **Magnadyne Corporation**
Attn: Barry Caren//Chris Duval
1111 W. Victoria Street
Compton, CA 90220

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/154,125	06/15/2005	C.M. Wong	73477.00012.UTL1

CONFIRMATION NO. 2465

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

OC000000032817915

Date Mailed: 10/27/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/19/2008.

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

/tswilliams/

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

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PORTLAND OR 97204

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of
James D. Parsons and B. Leo Kwak
Application No. 11/154,134
Filed: June 15, 2005
Attorney Docket No. 1138-149

LETTER

This is in response to the petition under 37 CFR 1.47(b), filed August 29, 2005.

In accordance with 37 CFR 1.63(d), petitioner submitted a copy of the executed declaration filed in Application No. 09/351,106, filed on July 6, 1999. The present application is a continuation of Application No. 10/016,578, filed November 1, 2001, now Patent No. 6,911,714, which is a divisional of Application No. 09/351,106, filed July 6, 1999, now Patent No. 6,913,757. Additionally, petitioner submitted a copy of the decision, mailed on June 5, 2000, granting a petition under 37 CFR 1.47(b) in prior Application No. 09/351,106. As § 1.47(b) status was granted in the prior application, this application is hereby accorded § 1.47(b) status.

The present petition is **dismissed** as involving a moot issue because a petition is unnecessary to accord § 1.47(b) status in this application. The record indicates that petitioner submitted a copy of the executed declaration filed in Application No. 09/351,106, and a copy of the decision of June 5, 2000, granting a petition under 37 CFR 1.47(b), with the application papers filed on June 15, 2005. Accordingly, the Notice to File Missing Parts of Nonprovisional Application mailed on August 1, 2005, was sent in error and is hereby withdrawn. The $65.00 surcharge is unnecessary and will be refunded to petitioner's deposit account.

As provided in 37 CFR 1.47(c), the Office is dispensing with the notice provision in this application because the Office provided notice to the non-signing inventors regarding the § 1.47(b) status in the prior application.

This matter is being referred to the Office of Initial Patent Examination for further processing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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APR 17 2007

OFFICE OF PETITIONS

In re Application of	:
Christian Lowe et al	:
Application No. 11/154,144	: DECISION ON PETITION
Filed: June 15, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 6701P034C2	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the 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 application 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 application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35

U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment **deleting the incorporation herein by reference statement for Application No. 10/785,553 (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) 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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SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Christian Lowe et al	:	
Application No. 11/154,144	:	DECISION ON PETITION
Filed: June 15, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 6701P034C2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the 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 the undersigned at (571) 272-3208. 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 4133 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed Application No. 10/785,553, filed February 23, 2004.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/154,144	06/15/2005	4133	500	6701P034C2	7	1

CONFIRMATION NO. 2876

CORRECTED FILING RECEIPT

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

OC000000026745106

Date Mailed: 11/15/2007

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)

Christian Lowe, San Francisco, CA;
Don Gurskis, Redwood City, CA;
Ashish Khera, San Francisco, CA;
Monica Barnhart, Foster City, CA;
Steven Bacich, Half Moon Bay, CA;
Betsy Swann, Newark, CA;
Roberto Silva-Torres, Foster City, CA;

Assignment For Published Patent Application

CONCEPTUS, INC., San Carlos, CA

Power of Attorney: The patent practitioners associated with Customer Number 08791

Domestic Priority data as claimed by applicant

This application is a CON of 10/785,553 02/23/2004
which is a CON of 09/644,287 08/22/2000 PAT 6,709,667
which claims benefit of 60/150,238 08/23/1999

Foreign Applications

If Required, Foreign Filing License Granted: 07/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/154,144**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Deployment actuation system for intrafallopian contraception

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.

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Christian Lowe	: DECISION ON REQUEST FOR
Patent Number	: 7591268	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,144	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **884** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STOLE RIVES, LLP
900 SW FIFTH AVENUE, SUITE 2600
PORTLAND, OR 97204-1268

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
MOINZADEH, et al.	:	
Application No. 11/154,145	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO WITHDRAW
Attorney Docket No. **44375/33:1**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 4, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **STOLE RIVES, LLP** has been revoked by the assignee of the patent application on February 15, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STOLOWITZ FORD COWGER, LLP**
621 SW MORRISON STREET, SUITE 600
PORTLAND, OR 97205

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/154,151	06/15/2005	2812	1130	42P20354	2	20	3

CONFIRMATION NO. 2858

UPDATED FILING RECEIPT

OC000000017392944

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 11/03/2005

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)

Juan E. Dominguez, Hillsboro, OR;
Michael L. McSwiney, Scappoose, OR;
Steven W. Johnston, Portland, OR;

Power of Attorney: The patent practitioners associated with Customer Number **45209**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/154,151

Projected Publication Date: 12/21/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method for adhesion and deposition of metal films which provide a barrier and permit direct plating

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).

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS PAUL DOWNS
P.O. BOX 3191
BEVERLY HILLS, CA 90212

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SEP 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Thomas Paul Downs	:	
Application No. 11/154,166	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed July 14, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

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

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

The instant petition fails to meet the requirements set forth above for special status because it lack items (B) and (C). The petition does not state 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 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.

Additionally, the petition is unsigned. Each piece of correspondence must be signed. See 37 CFR 1.4.

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 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 2627 for action in its regular turn.

David Bucci
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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OCT 01 2007

OFFICE OF PETITIONS

In re Application of
Vahid Saadat
Application No. 11/154,168
Filed: June 15, 2005
Attorney Docket No. 021496-004800US

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 September 6, 2007.

The request is **APPROVED**.

A review of the file record indicates that James M. Heslin and all attorneys/agents associated with customer number 20350: (1) does not have power of attorney in this patent application[1]; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 20350 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

A non-final rejection was mailed on May 18, 2007. Failure to timely respond will result in the abandonment of this application.

[1] The power of attorney filed on August 24, 2005 is not acceptable. Compliance with 37 CFR 3.73(b) has not been satisfied in that the statement does not set forth a reel and frame number where the recorded assignment appears in the assignment records of the Office or a copy of the assignment document.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Vahid Saadat
12679 Kane Drive
Saratoga, CA 95070

cc: Johney Han
Levin Bagade Han LLP
2483 East Bayshore Road
Suite 100
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/154,168	06/15/2005	Vahid Saadat	021496-004800US

CONFIRMATION NO. 2410

OC000000026084893

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

Date Mailed: 10/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2007.

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

K. Brabrnet

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date: 12/15/08

Patent No. : 7436640 B2
Ser. No. : 11/154,175
Inventor(s) : SU, HUNG-DER
Issued : 10/14/08
Title : **BOOSTER POWER MANAGEMENT INTEGRATED CIRCUIT CHIP WITH ESD PROTECTION BETWEEN OUTPUT PADS THEREOF**
Docket No. : **79-000900US**

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.

Lamonte M. Newsome

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

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

LMN

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

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FEB 2 5 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,436,640	:	
Issue Date: October 14, 2008	:	
Application No. 11/154,175	:	
Filed: June 15, 2005	:	
Patentee(s): Hung-Der Su, et. al.	:	

This is a decision on the request filed January 20, 2009, which is being treated as a request under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

As authorized, the $130 processing fee for treatment of the instant request and $100 for the Certificate of Correction have been charged to petitioner's deposit account.

The request is **GRANTED**.

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.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

OK TO ENTER: /W.K./

2309.73241 PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Yuko Miyake et al.
Patent No.	7,397,632
Issued:	July 8, 2008
Serial No.:	11/154,181
Filed:	June 16, 2005
For:	SOFT MAGNETIC THIN FILM AND MAGNETIC RECORDING HEAD
Conf. No.:	2418
Art Unit:	2627
Examiner:	Klimowicz, William Joseph

REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 1.323

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. 1.323, Patentees through their attorneys, respectfully request that a Certificate of Correction be issued in the above-referenced patent to correct the following error(s):

OK TO ENTER: /W.K./

On the Title Page:

Column 2 (57) ABSTRACT Line 5	Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

OK TO ENTER: /W.K./

In the Specification:

Col. 1, Lines 62-63 Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

Col. 2, Lines 22-23 Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

Col. 2, Line 44 Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

Col. 4, Line 10 Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

Col. 4, Line 36 Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

Col. 5, Line 3 Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

Col. 5, Line 50 Please delete "bcc(100)" and insert --bcc(110)-- in its place.

Col. 5, Line 53 Please delete "bcc(100)" and insert --bcc(110)-- in its place.

Col. 5, Line 54 Please delete "bcc(100)" and insert --bcc(110)-- in its place.

OK TO ENTER: /W.K./

Col. 5, Line 66	Please delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 3	Please delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 13	Please delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 19	Please delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 29	Please delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 8, Line 12	Please delete "FexCo1-x ($60 \leqq x \leqq 75$ wt %)" and insert --Fe_xCo_{100-x} ($60 \leqq x \leqq 75$wt%)-- in its place.
Col. 8, Line 14	Please delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 8, Line 15	Please delete "1 nm" and insert --1 μm-- in its place.
Col. 8, Line 24	Please delete "bcc(100)" and insert --bcc(110)-- in its place.

OK TO ENTER: /W.K./

In the Claims:

Col. 8, Line 67 Claim 1	Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 9, Line 16 Claim 2	Please delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

OK TO ENTER: /W.K./

REMARKS

It is believed that an issuance of a Certificate of Correction would be appropriate to correct these typographical errors and omissions. A Certificate of Correction incorporating the above-delineated change(s) is enclosed herewith.

Patentees authorize the appropriate fee of $100.00, pursuant to 37 C.F.R. § 1.20(a), to be charged to Deposit Account No. 07-2069. The Commissioner is also authorized to charge any additional fees to Deposit Account No. 07-2069.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By

B. Joe Kim
Registration No. 41,895

Customer No. 24978

September 9, 2009
300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
Telephone: (312) 360-0080
Facsimile: (312) 360-9315

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PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

OK TO ENTER: /W.K./

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 : 7,397,632 B2

DATED : July 8, 2008

INVENTOR(S) : Miyake et al.

It is certified that error(s) appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title Page:

Column 2 – (57) ABSTRACT - Line 5	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

In the Specification:

Col. 1, Lines 62-63	Delete "FexCo1-x (60≦x≦75 wt %)" and insert -- Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 2, Lines 22-23	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 2, Line 44	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 4, Line 10	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 4, Line 36	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 5, Line 3	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 5, Line 50	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 5, Line 53	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 5, Line 54	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 5, Line 66	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 3	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 13	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 19	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 6, Line 29	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 8, Line 12	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 8, Line 14	Delete "bcc(100)" and insert --bcc(110)-- in its place.
Col. 8, Line 15	Delete "1 nm" and insert --1 μm-- in its place.
Col. 8, Line 24	Delete "bcc(100)" and insert --bcc(110)-- in its place.

In the Claims:

Col. 8, Line 67, Claim 1	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.
Col. 9, Line 16, Claim 2	Delete "FexCo1-x (60≦x≦75 wt %)" and insert --Fe_xCo_{100-x} (60≦x≦75wt%)-- in its place.

MAILING ADDRESS OF SENDER:

Patrick G. Burns
GREER, BURNS & CRAIN, LTD.
300 South Wacker Drive, 25th Floor
Chicago, IL 60606

PATENT NO 7,397,632

 No. of additional copies 1 2309.73241

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091007

DATE : October 07, 2009

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,397,632

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The proposed changes in the Certificate of Correction are deemed minor changes by the Examiner, which do not affect the meaning or scope of the US Patent No. 7,397,632 B2.

/ William J. Klimiowicz /

Primary Examiner
Art Unit 2627

/JOSEPH H FEILD/
Supervisory Patent Examiner.Art Unit 2627

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

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In re Application of	:	
Masatoshi MASUDA	:	
Application No. 11/154,191	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. SCCO.024AUS	:	FROM RECORD
	:	

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 16, 2008.

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

A review of the file record indicates that the power of attorney to Knobbe, Marten, Olson & Bear LLP, has been revoked by the assignee of the patent application on August 6, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: K.A. PATENTS
8806 CAMBRIDGE AVE #1003
KANSAS CITY, MO 64138

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 18 2007

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

In re Application of	:
Edward J. Meehan et al	:
Serial No.: 11/154,203	: PETITION DECISION
Filed: June 16, 2005	:
Attorney Docket No.: 038470/292556	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 16, 2005. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

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

The petition is **GRANTED**.

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

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

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MAY 10 2006

OFFICE OF PETITIONS

CRUTSINGER & BOOTH
1601 ELM STREET
SUITE 1950
DALLAS, TX 75201-4744

In re Application of :
Mendoza, et al. :
Application No.: 11/154,209 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No: MENF-18,896 :

This is in response to the petition under 37 CFR 1.137(b) filed April 20, 2006

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed July 13, 2005. The notice set a shortened period for reply of two-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on September 14, 2005. A Notice of Abandonment was mailed on March 17, 2006.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

The notice of July 13, 2005, required an oath or declaration, surcharge, and substitute specification to be filed. The instant petition was accompanied by an executed declaration under 37 CFR 1.63 and surcharge, but the substitute specification was not found. The reply to the notice is considered incomplete, accordingly. The renewed petition must be accompanied by a substitute specification to be considered grantable.

The "Power of Attorney and Correspondence Address Indication Form" filed April 20, 2006, is noted and made of record.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries concerning this 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CRUTSINGER & BOOTH
1601 ELM STREET
SUITE 1950
DALLAS, TX 75201-4744

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JUL 13 2006
OFFICE OF PETITIONS

In re Application of
Mendoza, et al.
Application No.: 11/154,209
Filed: June 16, 2005
Attorney Docket No. MENF-18,896

ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed June 21, 2006.

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

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on July 13, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and $65.00 surcharge for the late filing of the same and substitute specification. A complete response was not received within the allowable period, and the application became abandoned on September 14, 2005. A Notice of Abandonment was mailed on March 17, 2006. A petition under 37 CFR 1.137(b) was first filed on April 20, 2006, and dismissed by a decision mailed May 10, 2006.

The substitute specification filed June 21, 2006, are noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT./ MAIL STOP NRW-097
7801 COMPUTER AVENUE SOUTH
BLOOMINGTON, MN 55435

Mail Date: 04/21/2010

Applicant	: Ladislav R. Pust	: DECISION ON REQUEST FOR
Patent Number	: 7573682	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,223	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **455** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 19 2005

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of	:	
Peyman	:	DECISION PETITION
Serial No.: 11/154,229	:	
Filed: June 16, 2005	:	
For: Method To Treat Age-Related Macular	:	
Degeneration	:	

This is in response to applicants' petition filed July 15, 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

Frederick R. Schmidt, Director
Technology Center 3700

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Alexandria, Virginia 22313-1450
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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/21/2010

Applicant	: Berndt Pilgram	: DECISION ON REQUEST FOR
Patent Number	: 7606270	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,232	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 04/21/2010

Applicant	: Dong-Suk Shin	: DECISION ON REQUEST FOR
Patent Number	: 7611973	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,236	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **659** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

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OFFICE OF PETITIONS

In re Application of :
Paul Simon and Paul A. Roberts :
Application No. 11/154,252 : DECISION ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. C1241/20785 :

This is a decision on the petition under 37 CFR 1.182, filed September 8, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors; namely, Paul Simon and Paul A. Roberts, accompanies this decision on petition.

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

This application is now before Technology Center AU 2632 awaiting examination.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/154,252	06/16/2005	2876	2250	C1241/20785	13	41	4

CONFIRMATION NO. 2967

CORRECTED FILING RECEIPT

OC000000022416932

3000
CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Date Mailed: 02/09/2007

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

Applicant(s)

Paul Simon, Princeton Junction, NJ;
Paul A. Roberts, Collingswood, NJ;

Assignment For Published Patent Application

Checkpoint Systems, Inc., Thorofare, NJ

Power of Attorney: The patent practitioners associated with Customer Number **03000**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/590,548 07/23/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/154,252

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Self-check system and method for protecting digital media

Preliminary Class

235

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Application of	:	
Boumsell et al.	:	
Application No. 11/154262	:	DECISION ON APPLICATION
Filing or 371(c) Date: 06/15/2005	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
CRG-001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b), filed December 21, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Application for Patent Term Adjustment Including Request for Reconsideration Under 37 CFR §1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Because the correction of the adjustment pursuant to 37 CFR 1.704(c)(8) will not result in a change in Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance remains zero (0) days (adjustments totaling 43 days less reductions totaling 134 days). A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Determination of Patent Term Adjustment mailed September 21, 2009, indicated that the above-identified application was entitled to a PTA of 0 days. Applicants submit that the patent term adjustment should include 35 additional days of applicant delay associated with the filing of a Supplemental Informatiom Disclosure Statement ("IDS") filed June 5, 2007, said adjustment is pursuant to 37 CFR 1.704(c)(8).

A review of the record confirms that the Office errantly neglected to assess a reduction in accordance with 37 CFR 1.704(c)(8) in connection with the Supplemental Informatiom Disclosure Statement ("IDS") filed June 5, 2007. Applicant filed an Amendment in response to a non-final Office action on May 1, 2007, and thereafter filed the Supplemental IDS. The reduction commenced May 2, 2007, the day after the date the initial reply was filed, and ended on the date that the Supplemental IDS, June 5, 2007.

Regarding applicant's asserted entitlement to Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), 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].

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is zero (0) days (adjustments totaling 228 days less reductions totaling 493 days).

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).

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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.

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

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

PALM INTRANET

Day : Saturday
Date: 5/8/2010
Time: 20:56:16

PTA Calculations for Application: 11/154262			
Application Filing Date:	06/15/2005	PTO Delay (PTO):	43
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	99
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	05/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
71	09/21/2009	MAIL NOTICE OF ALLOWANCE			
70	09/19/2009	ISSUE REVISION COMPLETED			
69	09/19/2009	DOCUMENT VERIFICATION			
68	09/18/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	09/18/2009	NOTICE OF ALLOWABILITY			
64	07/15/2009	DATE FORWARDED TO EXAMINER			
63	06/18/2009	RESPONSE AFTER NON-FINAL ACTION			
62	04/29/2009	MAIL NON-FINAL REJECTION			
61	04/27/2009	NON-FINAL REJECTION			
54	03/09/2009	DATE FORWARDED TO EXAMINER			
53	02/02/2009	RESPONSE AFTER NON-FINAL ACTION		2	52
52	10/31/2008	MAIL NON-FINAL REJECTION			
51	10/27/2008	NON-FINAL REJECTION			
48	08/15/2008	DATE FORWARDED TO EXAMINER			
47	07/07/2008	RESPONSE AFTER NON-FINAL ACTION		94	40
46	07/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	05/08/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	05/05/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	01/04/2008	MAIL NON-FINAL REJECTION			
39	01/03/2008	NON-FINAL REJECTION			
38	11/01/2007	DATE FORWARDED TO EXAMINER			
37	10/22/2007	RESPONSE AFTER NON-FINAL ACTION		3	34
		REQUEST FOR EXTENSION OF TIME - GRANTED			

36	10/22/2007				
35	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
34	07/19/2007	MAIL NON-FINAL REJECTION			
33	07/17/2007	NON-FINAL REJECTION			
32	06/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	06/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	05/01/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
29	05/18/2007	DATE FORWARDED TO EXAMINER			
28	05/01/2007	RESPONSE AFTER NON-FINAL ACTION			
27	02/01/2007	MAIL NON-FINAL REJECTION			
26	01/20/2007	NON-FINAL REJECTION			
25	12/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	12/07/2006	DATE FORWARDED TO EXAMINER			
23	11/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
22	11/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	09/27/2006	MAIL RESTRICTION REQUIREMENT	43		-1
20	09/26/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
19.7	12/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	10/13/2005	PRELIMINARY AMENDMENT			
16	11/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	10/21/2005	APPLICATION DISPATCHED FROM OIPE			
14	10/21/2005	APPLICATION IS NOW COMPLETE			
13	10/13/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
12	06/15/2005	CLAIM PRELIMINARY AMENDMENT			
11	10/13/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	07/20/2005	CLEARED BY L&R (LARS)			
8	07/14/2005	NOTICE MAILED--APPLICATION INCOMPLETE--			

		FILING DATE ASSIGNED			
6	06/28/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	06/24/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	06/24/2005	CASE CLASSIFIED BY OIPE			
3	06/23/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	06/15/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/15/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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AUG 22 2008

FOLEY HOAG, LLP
PATENT GROUP (W/HUV HMV)
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

In re Application of	:	
David A. **SINCLAIR**, et al	:	
Application No. 11/154,293	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. HMV-095.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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 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 March 4, 2008.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN R. VAN AMSTERDAM
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210

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LAW OFFICES OF DON FINKELSTEIN
3858 CARSON STREET, SUITE 216
TORRANCE CA 90503

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JUN 0 9 2008

OFFICE OF PETITIONS

In re Application of
Nancy Kline
Application No. 11/154,302
Filed: June 16, 2005
Attorney Docket No.: PA5381

ON PETITION

This decision is in response to the petition filed May 12, 2008, to withdraw the holding of abandonment for the above-identified application under 37 CFR 1.181 or in the alternative to revive the above-identified application under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned for failure to timely submit a timely response to the non-Final Office Action mailed July 10, 2007, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed February 26, 2008.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response which included a one month extension of time request and bears a certificate of mail dated October 15, 2007, pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records does not reveal that the response was filed but, the evidence submitted corroborates a timely response to the non-Final Office Action.

Accordingly, the Notice of Abandonment mailed July 11, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

In view of the above, there is no need to treat the petition in the alternative under 37 CFR 1.137(b). The petition fee will be refunded in due course.

Petitioner's request for expedited handling of this matter and fee for doing so is acknowledged.

This matter will be referred to Technology Center 3644 for appropriate action on the amendment filed October 15, 2007, a copy of which was submitted with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No.

KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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OFFICE OF PETITIONS

In re Application of	:	
Nancy Kline	:	
Application No. 11/154,302	:	ON APPLICATION FOR
Filed: June 16, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. AMI001	:	

This is in response to the Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance filed January 30, 2009. Applicant requests that the determination of patent term adjustment be corrected from one hundred sixty-one (161) days to seven hundred sixty-five (765) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the

patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is three hundred forty-one (341) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On October 30, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 161 days. On January 30, 2009, applicant timely submitted the instant application for patent term adjustment[1]. Applicant disputes the reduction of 215 days for the time period during which the application was erroneously held abandoned. Applicant asserts entitlement to an additional period of adjustment of 258 days under 1.702(a)(2) for Office failure to respond to their reply filed on petition filed

[1] PALM records indicate that the issue fee was also paid on January 30, 2009.

February 15, 2008 until October 30, 2008. However, applicant acknowledges that entry of a period of reduction may be warranted for applicant delay in filing a petition to withdraw the holding of abandonment.

Applicant states that any patent granted on this application is not subject to a terminal disclaimer.

With respect to removal of the reduction of 215 days for applicant delay and entry of a period of reduction for applicant delay in filing a petition to withdraw the holding of abandonment, applicant is correct. However, with respect to entry of an additional period of adjustment of 258 days, applicant is incorrect.

A review of the application history reveals that no response to the Office action mailed July 10, 2007 was considered timely filed by the Office and the application became abandoned. Applicant was advised of the abandonment by notice mailed February 26, 2008. In response, on May 12, 2008, applicant filed a petition to withdraw the holding of abandonment along with another copy of the response. By decision mailed June 9, 2008, the holding of abandonment was withdrawn on the basis that applicant had shown that a response should be considered timely filed pursuant to 37 CFR 1.8(b).

This decision supports the conclusion that, with respect to the Office action mailed July 10, 2007, applicant did not fail to engage in reasonable efforts to conclude prosecution or examination within the meaning of 37 CFR 1.704(b). The response submitted on petition filed May 12, 2008 was submitted as evidence of the original earlier filing. Under the circumstances, the reduction of 215 days associated with the filing of the response on petition filed May 12, 2008 is not warranted and is being removed.

Applicant did fail to engage in reasonable efforts with respect to withdrawing the holding of abandonment. The petition to withdraw the holding of abandonment was filed two months and 16 days from the mailing date of the notice of abandonment. Accordingly, pursuant to 37 CFR § 1.704(c)(4), a period of reduction of 16 days is being entered.

However, no further adjustment pursuant to 37 CFR 1.702(a)(2) is warranted for Office delay. The response as mailed by applicant

was never actually received in the Office. The response was first received in the Office on May 12, 2008. The Office mailed a notice of allowance in response on October 30, 2008, four months and 48 days later.

Moreover, a review of the application history reveals that a further period of reduction is warranted. Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

After filing a response on May 12, 2008, 19 days later, on June 20, 2008, applicant filed an Information Disclosure Statement (IDS). This supplemental paper was not expressly requested by the examiner. Further, the IDS did not include a 1.704(d) statement. Accordingly, entry of a period of reduction of 19 days is warranted.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 341 days (376 (328 + 48) days of Office delay reduced by 35 (16 + 19) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. 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 will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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

Christina Partee Donnell for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

PALM INTRANET

Day : Monday
Date: 7/6/2009
Time: 20:23:03

PTA Calculations for Application: 11/154302			
Application Filing Date:	06/16/2005	PTO Delay (PTO):	376
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	215
Post-Issue Petitions:	0	Total PTA (days):	341
PTO Delay Adjustment:	180		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	06/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	215		
68	06/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		16	
67	06/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		19	
54	10/30/2008	MAIL NOTICE OF ALLOWANCE	48		41
53	10/28/2008	ISSUE REVISION COMPLETED			
52	10/28/2008	DOCUMENT VERIFICATION			
51	10/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	10/27/2008	NOTICE OF ALLOWABILITY			
49	06/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	10/23/2008	PG-PUB ISSUE NOTIFICATION			
47	08/12/2008	DATE FORWARDED TO EXAMINER			
46	07/01/2008	SUPPLEMENTAL RESPONSE			
45	06/20/2008	REFERENCE CAPTURE ON IDS			
44	06/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	05/12/2008	NEW OR ADDITIONAL DRAWING FILED			
42	07/05/2008	DATE FORWARDED TO EXAMINER			
41	05/12/2008	RESPONSE AFTER NON-FINAL ACTION		215	25
40	05/12/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	07/08/2008	MAIL NOTICE OF RESCINDED ABANDONMENT			
38	07/05/2008	NOTICE OF RESCINDED ABANDONMENT IN TCS			
37	06/18/2008	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
36	06/26/2008	CHANGE IN POWER OF ATTORNEY (MAY			

		INCLUDE ASSOCIATE POA)			
35	06/25/2008	CORRESPONDENCE ADDRESS CHANGE			
34	06/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	06/09/2008	MAIL-PETITION DECISION - DISMISSED			
32	06/09/2008	PETITION DECISION - DISMISSED			
31	05/12/2008	PETITION ENTERED			
30	06/09/2008	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
29	06/09/2008	PETITION TO REVIVE APPLICATION - GRANTED			
28	05/12/2008	PETITION ENTERED			
27	02/26/2008	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
26	02/19/2008	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
25	07/10/2007	MAIL NON-FINAL REJECTION	328		-1
24	06/25/2007	NON-FINAL REJECTION			
23	06/16/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	08/08/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21.7	06/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	06/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	06/16/2005	REFERENCE CAPTURE ON IDS			
19	08/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	07/25/2006	APPLICATION RETURN FROM OIPE			
17	07/25/2006	APPLICATION IS NOW COMPLETE			
16	07/13/2006	ADDITIONAL APPLICATION FILING FEES			
15	07/25/2006	APPLICATION RETURN TO OIPE			
14	07/24/2006	APPLICATION DISPATCHED FROM OIPE			
13	07/25/2006	APPLICATION IS NOW COMPLETE			
11	07/13/2006	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
10	07/24/2006	CORRESPONDENCE ADDRESS CHANGE			
9	03/24/2006	CORRECTED PAPER			
8	03/17/2006	WITHDRAW PRE-EXAM ABANDON			
7	09/14/2005	ABANDONMENT -- DURING PREEXAM			

		PROCESSING			
6	07/13/2005	CORRECTED PAPER			
5	06/16/2005	PGPUBS NONPUB REQUEST			
3	06/29/2005	CLEARED BY OIPE CSR			
2	06/24/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/16/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

Applicant	: Wilson Massey Fish	: DECISION ON REQUEST FOR
Patent Number	: 7590799	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,307	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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In re Application of	:	
Thomas A. Visel	:	DECISION ON PETITION
Application No.: 11/154313	:	
Filing or 371(c) Date: 06/16/2005	:	
Attorney Docket Number:	:	
VISL-27,175	:	

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f)) filed December 5, 2007.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a foreign or international application filed on January 5, 2006. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application.

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 instant 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)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing accompanies this Decision.

The application will be referred to Technology Center AU 2129 for continued processing in due course.

Telephone inquiries regarding 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

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
11/154,313	06/16/2005	Thomas A. Visel	VISL-27,175

CONFIRMATION NO. 2124

25883
HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

NONPUBLICATION RESCISSION LETTER

OC000000028149729

Date Mailed: 02/07/2008

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 05/15/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH FROHWEIN TEMPEL GREENLEE BLAHA LLC
TWO RAVINIA DRIVE
SUITE 700
ATLANTA GA 30346

COPY MAILED

OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Christopher J. **Abel**	:	
Application No. 11/154,314	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before May 16, 2007, as required by the Notice of Allowability, mailed February 16, 2007. Accordingly, the date of abandonment of this application is May 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

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

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHEN R. CHAPMAN
547 ISSAQUEENA TRAIL
CLEMSON SC 29631

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Mark Fenner
Application No. 11/154,351
Filed: June 16, 2005
For: Ladder Securement Device For Vehicle Ladder Racks

DECISION ON PETITION

This is a decision on the petition, filed January 26, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is GRANTED.

This application was held abandoned for failure to timely respond to the non- final Office action of April 2, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 2, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on October 2, 2008, which included the following papers: an amendment, Information Disclosure Statement (IDS) and request for a three month extension of time and check. Petitioner states that the reply is available in private PAIR. A stamped postcard dated October 6, 2008.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 2, 2008 is hereby withdrawn and the application restored to pending status.

The Office has located the original reply received on October 6, 2008

This application is being referred to Technology Center AU 3634 for appropriate action in the normal course of business on the reply received on October 6, 2008.

Charlema Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/154,351	06/16/2005	Mark B. Fenner	

CONFIRMATION NO. 2306

POA ACCEPTANCE LETTER

29710
STEPHEN R. CHAPMAN
547 ISSAQUEENA TRAIL
CLEMSON, SC 29631

OC000000034875427

Date Mailed: 03/06/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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

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.

/crgrant/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/154,351	06/16/2005	Mark B. Fenner	

CONFIRMATION NO. 2306

POWER OF ATTORNEY NOTICE

LAW OFFICES OF ADAM H. JACOBS
SUITE 726
1904 FARNAM STREET
OMAHA, NE 68102

OC000000034875426

Date Mailed: 03/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/crgrant/

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA 02110

Mail Date: 05/21/2010

Applicant	: Rajesh Menon	: DECISION ON REQUEST FOR
Patent Number	: 7667819	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/154,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1083** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

FITZPATRICK CELLA (CATALENT)
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
Victor Gherdan et al :
Application No. 11/154,356 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. RPS6138-US :

This is a decision on the petition filed August 15, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed February 15, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 16, 2007.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. :, 7,392,634 B1
Ser. No. : 11/154,361
Inventor(s) : Maye et al..
Issued : July 1, 2008
Title : WEB PRINTING AND FEED MACHINE AND METHOD
Docket No. : 1-922

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.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 117 or (703) 308-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOOKER & HABIB, P.C.
100 CHESTNUT STREET, SUITE 304
HARRISBURG, PA 17101

MAILED

JUL 08 2009

OFFICE OF PETITIONS

In re Patent No. **7,392,634**	:	
Issue Date: July 1, 2008	:	
Application No. 11/154,361	:	DECISION ON PETITION
Filed: June 16, 2005	:	UNDER 37 CFR 3.81(b)
Attorney Docket No. **1-922**	:	

This is a decision on the petition filed April 2, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7253. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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

Attorney's Case No.: 1-922

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee: Maye et al.
Patent No: 7,392,634
Filed: June 16, 2005
Title: WEB PRINTING AND FEED MACHINE AND METHOD

Examiner: Sameh H. Tawfik
Art Unit: 3721
Issued: July 1, 2008

REQUEST FOR CERTIFICATE OF CORRECTION TO SHOW ISSUE OF PATENT TO ASSIGNEE UNDER 37 CFR 3.18(b)

FAX RECEIVED
APR - 2 2009
OFFICE OF PETITIONS

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

Dear Sir:

On July 15, 2008, attorney of record in the above issued patent electronically submitted a Request for a Certificate of Correction. The request sought to correct the patent grant to state the name of the assignee. The fee for the Certificate of Correction was included with the request. On March 30, 2009, we received the attached letter from the Decisions & Certificates of Correction Branch of the Office.

Applicant herein states that the assignment of the parent patent application and present patent grant was submitted for recordation in accordance with §3.11 before issuance of the patent. The assignment was recorded on July 7, 2005 at reel/frame 016486/0041. A copy of the Notice of Recordation of Assignment Document is attached.

The failure to include the correct assignee name on form PTOL-85B was inadvertent.

The $130 fee required under 37 CFR 1.117(h) for this Petition may be charged to Deposit Account No. 08-2733.

If this request is granted, please forward the file to the Certificate of Correction branch for issuance of the previously filed Certificate of Correction.

If anything else is needed, please call the undersigned at (717)232-8771.

Respectfully submitted,

ANTHONY J. MAYE
GREGORY P. ROCHON

By _____ 07/09/2009 LDIEP1 00000002 082733 11154361
01 FC:1464 130.00 DA

Thomas Hooker, Esq.
Hooker & Habib, P.C.
Attorney of Record
Reg. No. 22,040
100 Chestnut St., Ste. 304
Harrisburg, PA 17101
(717) 232-8771

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CHRISTOPHER P MAIORANA, PC
LSI Corporation
24840 HARPER
SUITE 100
ST CLAIR SHORES, MI 48080

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of Seto et al. :
Application No. 11/154,401 :
Filing Date: June 16, 2005 :
Attorney Docket No. 04-2001/1496.00416 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 29, 2007, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, October 2, 2007. A Notice of Abandonment was mailed on January 9, 2008.

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). Specifically, petitioner has:

(1) Submitted the petition fee of $1,540,
(2) Submitted a reply to the June 29, 2007 non-final Office action, and
(3) Stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition is granted and the application is revived.

Technology Center Art Unit 2185 will be informed the application has been revived and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SNELL & WILMER, L.L.P.
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of	:	
John Lockhart	:	
Application No. 11/154,404	:	DECISION ON PETITION
Filed: June 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 40514.0200	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed February 24, 2006, 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 support that the claimed invention will materially contribute to the more efficient utilization and conservation of energy resources or is a discovery or development of energy resources. Petitioner states "Specifically, the present invention relates to a device that allows the flow of water through a fixture (e.g., a shower head or the like) to be automatically stopped or restricted when the water reaches a particular temperature." While the petition explains how the invention would conserve water, the petition does not clearly explain how the claimed invention materially contributes to the conservation of energy resources. The contribution of the petitioner's invention, while beneficial to conserving water, does not appear to conserve energy resources materially as intended by the rule.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3751 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALBERT B. KIMBALL, JR.
BRACEWELL & PATTERSON L L P
711 LOUISANA SUITE 2300
HOUSTON TX 77002

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SEP 04 2008

In re Application of

CALDERON, Reynaldo
Application No. 11/154,413
Filed: June 16, 2005
Attorney Docket No. **013962.000002**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 20, 2008 and re-submitted on June 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 Albert Kimball, Jr. on behalf of all attorneys of record who are associated with customer No. 08176. All attorneys/agents associated with the Customer Number 08176 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Reynaldo Calderon at the address indicated below. There is an outstanding Office action mailed June 19, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **REYNALDO CALDERON**
2424 WEST HOLCOMBE
SUITE 204
HOUSTON TX 77030

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: John G.K. Williams	: DECISION ON REQUEST FOR
Patent Number	: 7625701	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **926** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MUNCK CARTER/NSC
P.O. DRAWER 800889
DALLAS TX 75380

MAILED

JUN 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Adam Nicholas Fish	:	DECISION ON APPLICATION
Application No. 11/154,436	:	FOR
Filed: 06/16/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. P06260	:	

This letter is in response to the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT," filed on November 23, 2009. Applicants request review of the initial determination of patent term adjustment. The communication is treated as an application for patent term adjustment under 37 CFR 1.705(b).

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

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 176 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 8, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 421 days.

On November 23, 2009, applicants timely submitted the instant application for patent term adjustment.[1]

[1] PALM records show that the Issue Fee was received on November 23, 2009.

Applicants assert that the initial determination of patent term adjustment is in error. Specifically, applicants assert that the period of adjustment for Office delay of 245 days in connection with the decision of the Board of Patent Appeals and Interferences ("Board Decision") mailed on May 18, 2009, is incorrect. Petitioners assert that as the Board Decision was not a decision in favor of applicants, no period of adjustment for Office delay is warranted.

Applicants are correct. 37 CFR 1.702(e) states, in pertinent part, that subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued under a decision in the review reversing an adverse determination of patentability.

A review of the Board Decision mailed on May 18, 2009, reveals that all grounds of the examiner's rejection of the claims was affirmed. Accordingly, the Board Decision was not a decision in the review reversing an adverse decision of patentability. Accordingly, entry of a period of adjustment of 245 days for Office delay in connection with the Board Decision is not warranted.

In view thereof, the determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred seventy-six (176)** days (184 (429 - 245) days of PTO delay, reduced by eight (8) days of Applicant delay).

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

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the 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 if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of updated PALM calculation

Day : Wednesday

PALM INTRANET

Date: 6/23/2010
Time: 13:53:59

PTA Calculations for Application: 11/154436			
Application Filing Date:	06/16/2005	PTO Delay (PTO):	429
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	8
Post-Issue Petitions:	0	Total PTA (days):	176
PTO Delay Adjustment:	-245		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	06/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		245	
66	09/08/2009	MAIL NOTICE OF ALLOWANCE			
65	09/02/2009	ISSUE REVISION COMPLETED			
64	09/02/2009	DOCUMENT VERIFICATION			
63	09/02/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	09/02/2009	NOTICE OF ALLOWABILITY			
59	07/13/2009	DATE FORWARDED TO EXAMINER			
58	07/07/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	07/13/2009	DATE FORWARDED TO EXAMINER			
56	07/07/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
55	07/13/2009	DISPOSAL FOR A RCE / CPA / R129			
54	07/07/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
53	05/18/2009	MAIL BPAI DECISION ON APPEAL - AFFIRMED	245		43
52	05/18/2009	BPAI DECISION - EXAMINER AFFIRMED			
51	11/25/2008	CORRESPONDENCE ADDRESS CHANGE			
49	11/12/2008	DOCKETING NOTICE MAILED TO APPELLANT			
48	11/12/2008	ASSIGNMENT OF APPEAL NUMBER			
47	10/15/2008	APPEAL AWAITING BPAI DOCKETING			
46	06/23/2008	MAIL REPLY BRIEF NOTED BY EXAMINER			
45	06/20/2008	REPLY BRIEF NOTED BY EXAMINER			
44	05/20/2008	DATE FORWARDED TO EXAMINER			
43	05/15/2008	REPLY BRIEF FILED			
42	03/18/2008	EXAM. ANS. REVIEW COMPLETE			
41	03/10/2008	MAIL EXAMINER'S ANSWER			

40	03/04/2008	EXAMINER'S ANSWER TO APPEAL BRIEF			
39	01/18/2008	APPEAL BRIEF REVIEW COMPLETE			
38	01/18/2008	DATE FORWARDED TO EXAMINER			
37	12/26/2007	APPEAL BRIEF FILED			
36	11/29/2007	MAIL APPEALS CONF. PROCEED TO BPAI			
35	11/26/2007	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
34	10/12/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
33	10/12/2007	NOTICE OF APPEAL FILED		3	27
32	10/12/2007	NOTICE OF APPEAL FILED			
31	09/20/2007	MAIL ADVISORY ACTION (PTOL - 303)			
30	09/18/2007	ADVISORY ACTION (PTOL-303)			
29	09/15/2007	DATE FORWARDED TO EXAMINER			
28	09/10/2007	AMENDMENT AFTER FINAL REJECTION			
27	07/09/2007	MAIL FINAL REJECTION (PTOL - 326)			
26	07/05/2007	FINAL REJECTION			
25	05/31/2007	DATE FORWARDED TO EXAMINER			
24	05/21/2007	RESPONSE AFTER NON-FINAL ACTION		5	23
23	02/16/2007	MAIL NON-FINAL REJECTION	184		-1
22	02/13/2007	NON-FINAL REJECTION			
21	08/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	05/17/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	05/16/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	05/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	05/09/2006	TRANSFER INQUIRY TO GAU			
16	04/28/2006	TRANSFER INQUIRY TO GAU			
15	02/13/2006	TRANSFER INQUIRY TO GAU			
14	01/04/2006	TRANSFER INQUIRY TO GAU			
13	01/04/2006	TRANSFER INQUIRY TO GAU			
12	12/12/2005	TRANSFER INQUIRY TO GAU			
11	12/05/2005	NEW OR ADDITIONAL DRAWING FILED			
10	12/05/2005	MISCELLANEOUS INCOMING LETTER			
9	07/14/2005	APPLICATION RETURN FROM OIPE			
8	07/15/2005	APPLICATION IS NOW COMPLETE			
7	07/14/2005	APPLICATION RETURN TO OIPE			
6	07/13/2005	APPLICATION DISPATCHED FROM OIPE			

5	07/14/2005	APPLICATION IS NOW COMPLETE			
4	06/16/2005	PGPUBS NONPUB REQUEST			
3	06/28/2005	CLEARED BY OIPE CSR			
2	06/22/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/16/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 4/1/09

Paper No.: ——

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/154457 Patent No.: 7485718 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.

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

Comments: The C of C has been approved.

/S. A. Jiang/ — SPE

1623 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Mark Silwkowski	:	
Pat. Num./Pub. Num: 7,618,631	:	ON REQUEST FOR
Issue Date: 11/17/2009	:	RECONSIDERATION OF
Application No. 11/154465	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/16/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
P1467R2D2	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 21, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred sixty-three (763) 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 sixty-three (763) days is **GRANTED to the extent indicated herein.**

Applicants dispute the period of reduction of 57 days for the filing of an Information Disclosure Statement (IDS) on December 4, 2008, after a reply had been filed on October 8, 2008. Applicants contend that pursuant to 37 CFR 1.704(d), the filing of the IDS should not be considered a failure to engage in reasonable efforts to conclude prosecution of this application under 37 CFR 1.704(c)(8).

Pursuant to 37 CFR 1.704(c)(8), the 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, is a failure to engage in reasonable efforts to conclude prosecution. It is undisputed that after filing a response on October 8, 2008, applicants filed an IDS on December 4, 2008. The record does not support a conclusion that the IDS was expressly requested by the examiner. Further, a review of the IDS filed December 4, 2008, reveals that it did not include the proper § 1.704(d) statement.[1] Specifically, the IDS was accompanied by the following statement:

[1] Applicants are reminded that 37 CFR 1.704(d) was revised, effective May 24, 2004, as follows:

> Each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart **foreign** application and the communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Emphasis added.

However, the statement required under 37 CFR 1.704(d) must state that:

> [E]ach item of information contained in the information disclosure statement was **first** cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Emphasis added.

The statement accompanying the IDS filed December 4, 2008, does not contain the language required by 37 CFR 1.704(d). Accordingly, it is concluded that the period of reduction of 57 days is correct and will not be changed.

Applicants also dispute the period of reduction of 44 days which applicant avers is in connection with the filing of an after-final amendment on April 23, 2009, and the interview summary dated June 11, 2009.

A review of Office records reveals that the period of reduction of 44 days is in connection with the filing of an Information Disclosure Statement (IDS) on November 11, 2007, after a reply to the Restriction Requirement on September 24, 2007. Pursuant to 37 CFR 1.704(c)(8) the reduction of 44 days commenced September 25, 2007, the day after the date the initial reply was filed, and ending on November 11, 2007, the date that the IDS was filed. Accordingly, it is concluded that the period of reduction of 44 days is also correct and will not be changed.

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004.

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

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **SIX HUNDRED SIXTY-TWO (662) 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 : 7,618,631 B2

DATED : **November 17, 2009**

INVENTOR(S) : Silwkowski

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 356 days.

Delete the phrase "by 356 days" and insert – by 662 days--

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
11/154,492	06/15/2005	2161	500	DOGO.P001C	20	1	1

CONFIRMATION NO. 1164

CORRECTED FILING RECEIPT

OC000000017343864

Shemwell Gregory & Courtney LLP
Ste 201
4880 Stevens Creek Blvd
San Jose, CA 95129

Date Mailed: 10/27/2005

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

Applicant(s)

Jinsheng Gu, San Mateo, CA;
Luosheng Peng, Santa Clara, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/146,545 05/13/2002 PAT 6,925,467

Foreign Applications

If Required, Foreign Filing License Granted: 07/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/154,492

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Byte-level file differencing and updating algorithms

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080304

DATE : March 18, 2008

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 7,193,181

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-910
Palm location 7590 - Tel. No. 305-8201

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

Thank You For Your Assistance

Certificates of Correction Branch

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

☒ Approved — All changes apply.

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

☐ Denied — State the reasons for denial below.

Comments:

SPE: /Tu Hoang/ Art Unit 3742

UNITED STATES PATENT AND TRADEMARK OFFICE

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MODIANO & ASSOCIATI
VIA MERAVIGLI, 16
MILAN 20123 IT ITALY

COPY MAILED

MAR 3 1 2009

OFFICE OF PETITIONS

In re Patent No. 7,442,314 :
Application No. 11/154,555 :
Filed: June 17, 2005 : NOTICE UNDER 37 CFR. 1.28(c)
Attorney Docket No. **40456/GM/CH** :
:

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 01, 1998, the court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998)**.

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FROM DIRECTOR'S OFFICE

JUL 17 2006

TECHNOLOGY CENTER 3600

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON, DC 20006-5403

In re application of Bart Kavanaugh Application No. 11/154,572 Filed: June 17, 2005 For: SYSTEM FOR FUNDING, ANALYZING AND MANAGING LIFE INSURANCE POLICIES FUNDED WITH ANNUITIES	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 30, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

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

SNM/dew: 07/17/06

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Bart Kavanaugh	: DECISION ON REQUEST FOR
Patent Number	: 7644022	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,572	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1057** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

BEST AVAILABLE COPY

Docket No. 27171.00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

APPLICANT : SAMUEL M. HILL

SERIAL NO : UNASSIGNED 11/154587 ART UNIT: UNASSIGNED 1744

FILED : HEREWITH 6-17-05 EXAMINER: UNASSIGNED

FOR : WINDOW WASHING TOOL

ASSISTANT COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 14509

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE

Dear Sir:

Applicant hereby petitions to make this application special because of the applicant's age. Specifically, I am more than sixty-five years old, having been born on May 24, 1935.

This petition is submitted without any fee as permitted by 37 C.F.R. 1.102(c).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: 13 Jun 05

Samuel M. Hill

SAMUEL M. HILL
2598 Ramblewood Drive
Kalamazoo, MI 49009

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PETITION GRANTED

Richard Crispino
Richard Crispino
Special Program Examiner
JUL 2 1 2005 TC1700

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Sang-hyun Lee	: DECISION ON REQUEST FOR
Patent Number	: 7580328	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,594	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1038** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/154,627	06/16/2005	Sung-Tae Kim	5000-1-748	1889

7590 12/24/2008
CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER
BHATIA, AJAY M

ART UNIT	PAPER NUMBER
2445	

MAIL DATE	DELIVERY MODE
12/24/2008	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 12/24/2008 BPOWELL
06/20/2005 AADOF01 00000049 11154627
02 FC:1111 -500.00 OP

Refund Ref:
12/24/2008 0030064986

Credit Card Refund Total: $510.00

AB Exp..: XXXXXXXXXXX1031

FORM PET651G (Rev. 08/07)

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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JUN 2 9 2007

OFFICE OF PETITIONS

In re Application of :

LIU, Connie C. et al. :
Application No. 11/154,637 : DECISION ON PETITION
Filed: June 17, 2005 : TO WITHDRAW
Attorney Docket No. **146712013500** : FROM RECORD

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 30, 2007.

The request is **APPROVED**.

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

The request was signed by Peter J. Davis on behalf of all attorneys of record who are associated with customer No. 25227. 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: **CONNIE C. LIU**
1088 QUEEN ANNE DRIVE
SAN JOSE, CA 95129

cc: **DARBY & DARBY P.C.**
1500 K. STREET, N.W.
SUITE 250
WASHINGTON, D.C. 20005-1714

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/154,637	06/17/2005	Connie Chunling Liu	146712013500

CONFIRMATION NO. 1622

OC000000024516094

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2007.

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

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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NOV 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Christian JACOBSEN, et al	:	
Application No. 11/154,657	:	DECISION ON PETITION
Filed: June 17, 2005	:	
Attorney Docket No. 034279-013	:	

This is a decision on the petition under 37 CFR 1.182, filed, June 30, 2009, to change the name of inventor "Martin Dybendal Nielson" to – Martin Dybendal Maack --.

The petition is **DISMISSED**.

In the petition dated June 30, 2009, petitioner states that Inventor Martin Dybendal Nielson, last name should be changed to "Maack." However, petitioner has not provided the procedure by which the name changed was effected.

In view of the above, the petition under § 1.182 to change the inventor's name cannot be granted at this time.

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of
Wein-Town Sun and Jung-Chun Tseng
Application No. 11/154,678
Filed: June 17, 2005
For: ORGANIC LIGHT EMITTING DIODE DISPLAY AND LUMINANCE COMPENSATING METHOD THEREOF

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 17, 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 2800 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/Patent
United States Patent and Trademark Office

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JUNG-CHUN TSENG
NO. 53, BEINING RD.
DONGNING VILLAGE, NEIPU TOWNSHIP
PINGTUNG COUNTY 912
TAIWAN, ROC

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AUG 08 2005

OFFICE OF PETITIONS

In re Application of
Wein-Town Sun and Jung-Chun Tseng
Application No. 11/154,678
Filed: June 17, 2005
For: ORGANIC LIGHT EMITTING DIODE DISPLAY AND LUMINANCE COMPENSATING METHOD THEREOF

Dear JUNG-CHUN TSENG:

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/Patent
United States Patent and Trademark Office

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005
U.S.A.

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WASHINGTON, DC 20005

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of
Wein-Town Sun and Jung-Chun Tseng
Application No. 11/154,678
Filed: June 17, 2005
For: ORGANIC LIGHT EMITTING DIODE DISPLAY AND LUMINANCE COMPENSATING METHOD THEREOF

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 17, 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 2800 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/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JUNG-CHUN TSENG
NO. 53, BEINING RD.
DONGNING VILLAGE, NEIPU TOWNSHIP
PINGTUNG COUNTY 912
TAIWAN, ROC

COPY MAILED

AUG 08 2005

OFFICE OF PETITIONS

In re Application of
Wein-Town Sun and Jung-Chun Tseng
Application No. 11/154,678
Filed: June 17, 2005
For: ORGANIC LIGHT EMITTING DIODE DISPLAY AND LUMINANCE COMPENSATING METHOD THEREOF

Dear JUNG-CHUN TSENG:

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/Patent
United States Patent and Trademark Office

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WASHINGTON, DC 20005
U.S.A.

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FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800

JAN - 8 2008

In re Application of	:	DECISION ON REQUEST TO
Koichi NAKATA et al.	:	PARTICIPATE IN PATENT
Application No. 11/154681	:	PROSECUTION HIGHWAY
Filed: June 17, 2005	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 03500.110519	:	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 November 29, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

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 fail to include:

A Notice of Allowability was mailed on January 4, 2008. Also, the preliminary amendment filed November 29, 2007 has not been entered.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kathryn Gorgos at 571 273-1012.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Kathryn Gorgos
TC 1700 TQAS

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

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SEP 22 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nakata et al. :
Application Number: 11/154681 :
Filing Date: 06/17/2005 :
Attorney Docket Number: :
03500.110519. :

This is a decision on the petition to withdraw the holding of abandonment filed on August 12, 2008.

This application was held abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on January 4, 2008, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on June 19, 2008. On August 12, 2008, the subject petition was filed.

Petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice of Allowance and Fee(s) Due mailed on January 4, 2008. In support of the allegation that the Notice of Allowance and Fee(s) Due mailed on January 4, 2008 was never received, petitioner has submitted a copy of a docket record and provided a statement by registered patent practitioner Peter Saxon, stating that based on his review of the file jacket and the application contents, the Notice of Allowance was not received at the correspondence address of record. The petition, signed by practitioner Saxon, further states that the Notice of Allowance was never received and references the

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on January 4, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on January 4, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due mailed on January 4, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office

> action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> (emphasis added)

Petitioner has provided a copy of the docket record. The petition also contains a statement by the practitioner indicating that, based on his review of the file jacket and docket records, the Notice would have been docketed and a response filed if the Notice had been received. Further, the statement of counsel's docketing supervisor, Mark Chandaratt, states that the docket report attached is the law firm's master docket.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to Technology Center Art Unit 1795 for remailing of the Notice of Allowance and Fee(s) Due mailed on January 4, 2008. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO, IL 60604-3787

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Nitin Dass Jain et al	:	
Application No. 11/154,683	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0278-0002	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed December 12, 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.

This matter is being referred to Technology Center Art Unit 3713 for action on the merits commensurate with this decision.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Woo-seog Kim	: DECISION ON REQUEST FOR
Patent Number	: 7593683	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,714	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **87** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 05/18/2010

Applicant : Woo-seog Kim
Patent Number : 7593683
Issue Date : 09/22/2009
Application No : 11/154,714
Filed : 06/17/2005

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

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MAY 2 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Kato, et al.	:	
Application No. 11/154,716	:	ON
Filed: June 17, 2005	:	PETITION
Attorney Docket No. 04329.3575	:	
FOR: METHOD, APPARATUS AND PROGRAM FOR PROTECTING CONTENT		

This is a decision on the petition under 37 CFR 1.137(a), filed April 12, 2006, to revive the above-identified application. In addition, the petition will be treated under 37 CFR 1.181. Petitioners request consideration under 37 CFR 1.137(b) in the alternative.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

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

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed July 14, 2005, which set an extendable period for reply of two (2) months. Having filed no extensions of time and no reply, this application became abandoned on October 15, 2005. A Notice of Abandonment was mailed on April 3, 2006.

Petitioners state that the delay was unavoidable because the July 14, 2005 Notice was not in petitioners' possession until petitioners retrieved a copy of it from PAIR after receiving the Notice of Abandonment.

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 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.

This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 U.S.C.§ 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

A review of the record indicates no irregularity in the mailing of the July 14, 2005 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioners have not proven non-receipt because (1) practitioner has not attested to the fact that a search of the file jacket indicates that the Office communication was not received.

The petitions under 37 CFR 1.181 and 1.137(a) are **dismissed**.

Petitioners have submitted an executed declaration and surcharge in response to the July 14, 2005 Notice, an acceptable statement regarding the unintentional nature of the delay in timely responding to the July 14, 2005 Notice, and authorization to charge the petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning 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 this is an incorrect interpretation in view of the rules, petitioners are required to provide a statement to that effect.

The $1,500.00 petition fee will be charged to deposit account no. 06-0916.

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

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

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

E. Shirene Willis

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

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FROM DIRECTORS OFFICE

MAY 16 2006

TECHNOLOGY CENTER 3600

Kevin E. Greene
Fish & Richardson P.C.
1425 K. Street, N.W.
11th Floor
Washington, DC 20005-3500

In re Application of Vinayak Raghuvamshi Application No. 11/154,733 Filed: June 17, 2005 For: PRESENTING ADVERTISING CONTENT	DECISION ON PETITION UNDER 37 C.F.R. 1.181 TO RECLASSIFY THE APPLICATION

This is in response to applicant's Petition filed on October 26, 2005, requesting that the application be reclassified.

Applicant states that "the application has been initially classified in class 705" but that class "725 is a more appropriate class for the subject matter of the claims presently pending in the application."

It is noted that Class 725 is directed to "Interactive video distribution systems ... such as television distribution systems" and that subclass 32 deals with "Program, message, or commercial insertion or substitution" in such a television distribution system. Class 705 is directed to "Data processing: financial, business practice, management, or cost/price determination", commonly known as "Business methods" and that subclass 14 (where the application is currently classified) deals with ""Distribution or redemption of coupon, or incentive or promotion program" including "a display or advertising system". The general line of demarcation established in these areas for this subject matter between Classes 725 and 705 is that Class 725 examines claims to television systems while Class 705 handles other advertising distribution systems, including via the Internet.

In the instant application, there is no television system in the claimed limitations or in the specification and the specification specifically describes streaming media over the Internet. This subject matter is appropriate for 705/14.

Accordingly, the Petition with regard to this issue is **DENIED**.

If the petitioner desires further review of the Director's Decision, applicant should consider filing a Petition for Review of the Director's Decision under 37 CFR §1.181(a)(3).

Summary: ***Petition Denied***

Wynn Coggins, Director
Patent Technology Center 3600
571-272-3600
Facsimilie No.: 571-273-8300
EWS 5/15/06

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& SABOL
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WASHINGTON DC 20036

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DEC 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Lichtenberg, et al.	:	
Application No. 11/154,748	:	DECISION
Filed/Deposited: 17 June, 2005	:	
Attorney Docket No. LP-1899-1	:	

This is a decision on the petition filed on 12 August, 2008, considered as a petition under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Petitioner has sought relief under the provisions of 37 C.F.R. §1.181 following the entry of a non-final Office action by the Examiner in response to Petitioner filed a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of the previously filed amendment. Petitioner avers that at that time Petitioner sought a suspension of pursuant to 37 C.F.R. §1.103, which provides in pertinent part:

> **37 CFR 1.103 Suspension of action by the Office.**
>
> (a) *Suspension for cause.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
>
> (1) A showing of good and sufficient cause for suspension of action; and
>
> (2) The fee set forth in §1.17(g), unless such cause is the fault of the Office.

***

(c) *Limited suspension of action after a request for continued application (RCE) under § 1.114.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph after the filing of a request for continued examination in compliance with §1.114 for a period not exceeding three months. Any request for suspension of action under this paragraph must be filed with the request for continued examination under §1.114, specify the period of suspension, and include the processing fee set forth in §1.17(i).

***

As to the Request to
Withdraw the Office action

Petitioner is directed to the Commentary at MPEP §709 for guidance as to the proper showing requirements.

BACKGROUND

The record reflects as follows:

Concurrently with a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of the previously filed amendment. On 16 June, 2008, Petitioner sought a suspension of pursuant to 37 C.F.R. §1.103.

(It appears that Petitioner may not have specified the period for which he sought the suspension as required under the rule.)

Nonetheless, the Examiner mailed a non-final Office action on 10 July, 2008.

Petitioner complains that his telephonic request (on 27 and 31 July, 2008) to the Examiner yielded no relief in this regard.

On 12 August, 2008, Petitioner filed a petition for relief.

It appears that on 12 August, 2008, the Office withdrew the Office action previously mailed on 10 July, 2008.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of

representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.

CONCLUSION

As to the Request to
Withdraw the Office Action

Petitioners are referred to the guidance in the Commentary at MPEP §709.

It appears that the matter is now moot.

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed as moot**.

The instant application is released to the Technology Center/AU (TC/AU) 1796 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 this decision 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 TCAU where that change of any status must be effected—that does not occur in the Office of Petitions.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

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JUN 09 2008

In re Patent No. 7,262,636	:	
Issue Date: August, 28, 2007	:	
Application No. 11/154,765	:	ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. SUZU1500	:	

This is a decision on the petition filed March 18, 2008, 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 Carl Friedman at (571) 272-6842. 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.

Carl Friedman
Petitions Examiner
Office of Petitions

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

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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 06/30/2010

Applicant	: Hsueh-Ying Huang	: DECISION ON REQUEST FOR
Patent Number	: 7652649	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/154,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **829** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Jody Claypool	: DECISION ON REQUEST FOR
Patent Number	: 7658741	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **854** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CARLSON, GASKEY & OLDS, P.C.
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SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 05/12/2010

Applicant	: Walter Douglas Bauman	: DECISION ON REQUEST FOR
Patent Number	: 7614616	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/154,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **495** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Thomas A. Beck
6136 West Kimberly Way
Glendale AZ 85308-7627

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of
Stephen Leslie Buchwalter et al.
Application No. 11/154,794
Filed: June 15, 2005
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition, filed May 29, 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 Final Office action of July 31, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 26, 2009.

Petitioner states that a reply in the form of a Request for Continued Examination (RCE) was timely sent to the Office on October 24, 2008, but was directed to the wrong application number. To support this assertion, petitioner has submitted evidence that acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on October 24, 2008, of the transmittal of the RCE.

The Office concurs with petitioner, in that, a response was timely submitted to the Office on October 28, 2008[1], but the documents listed the wrong application number; and as a result, the response was matched to an unrelated application.

Under current Office procedure, if a paper contains the incorrect application number, but contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted in the instant application, it is concluded that the information contained thereon (i.e., inventor's name, examiner's name, title of the invention, etc.) was sufficient to associate the papers filed October 28, 2008, with the above-identified application.

In view of the above, the petition is **GRANTED**. Accordingly, the holding of abandonment for failure to timely file a reply to the final Office action mailed July 31, 2008, is hereby **VACATED** and the application is restored to pending status.

[1] The RCE filed on October 28, 2008, contained a Certificate of Mailing under 37 CFR 1.10 dated October 24, 2008.

Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application

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

This application is being referred to Technology Center AU 1796 for appropriate action in the normal course of business on the reply received October 28, 2008.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 04/21/2010

Applicant	: Seok-jung Kim	: DECISION ON REQUEST FOR
Patent Number	: 7577968	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,808	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1025** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 05/18/2010

Applicant : Seok-jung Kim
Patent Number : 7577968
Issue Date : 08/18/2009
Application No : 11/154,808
Filed : 06/17/2005

: 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 **1080** 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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ANTONELLI, TERRY, STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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MAY 27 2008

In re Application of	:	
Kazuhisa Kurashige et al	:	
Application No. 11/154,824	:	DECISION GRANTING PETITION
Filed: June 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
For: INORGANIC SCINTILLATOR AND	:	
PROCES FOR ITS FABRICATION	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 27, 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 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1793 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

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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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JOSEPH M. SAUER
JONES DAY REAVIS & POGUE
NORTH POINT, 901 LAKESIDE AVENUE
CLEVELAND OH 44114

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Carles Puente Baliarde, et al.	:	
Application No. 11/154,843	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. 153454600003	:	FROM RECORD
	:	

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 25, 2005.

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

A review of the file record indicates that the power of attorney to Joseph M. Sauer has been revoked by the assignee of the patent application on August 5, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)-272-3213. All other inquiries concerning either the examination or status of application should be directed to the Technology Center.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Brian D. Walker
Howlson & Amot
Two Lincoln Center
5420 LBJ Freeway, Suite 660
Dallas, Texas 75240-2318

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/154,843	06/16/2005	Carles Puente Baliarda	153454600003

CONFIRMATION NO. 2479

OC000000019658652

33070
JOSEPH M. SAUER
JONES DAY REAVIS & POGUE
NORTH POINT, 901 LAKESIDE AVENUE
CLEVELAND, OH 44114

Date Mailed: 07/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2005.

- 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).

Cheryl R Gibson Baylor

CHERYL R GIBSON BAYLOR
OP (571) 272-3213

FORMER ATTORNEY/AGENT COPY

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P.O. BOX 1297
HOLLY SPRINGS NC 27540-1297

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OFFICE OF PETITIONS

In re Application of	:	
Feldman et al.	:	
Application No. 11/154,845	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. 8172-04-09	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed January 3, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 4, 2008. A Notice of Abandonment was mailed July 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate 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 Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

Mallinckrodt Inc.
675 McDonnell Boulevard
PO Box 5840
St. Louis, MO 63134

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OFFICE OF PETITIONS

In re Application of :
Heider et al. : DECISION ON
Application No. 11/154,849 : PETITION
Filed: June 16, 2005 :
Attorney Docket No. 1653.CP US:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE HOLDING OF ABANDONMENT," filed May 15, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed August 1, 2005. The Notice set a two-month time limit for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply having been received and no extension obtained, the application became abandoned effective October 2, 2005. A courtesy Notice of Abandonment was mailed on April 17, 2006.

In response, applicants filed the instant petition. Applicants request reconsideration of the holding of abandonment on the basis that the original response to the Notice was timely sent via Express mail on August 8, 2005. To satisfy the requirements of 37 CFR § 1.10(e), applicants submit *inter alia* copies of the Express Mail label and the response as they maintain it was filed by Express Mail on August 8, 2005.

RELEVANT REGULATIONS AND PROCEDURES

37 CFR § 1.10(e) provides that:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the

USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Further, MPEP 513 provides, in relevant part, that:

Effective December 2, 1996, 37 CFR 1.10(b) no longer requires a certificate of mailing by "Express Mail" or that the "Express Mail" mailing label number be placed on the correspondence prior to mailing. Correspondence deposited with the USPS on or after December 2, 1996, and which is actually received by the Office will not be denied a filing date as of

the "date-in" appearing on the "Express Mail" mailing label because the number of the "Express Mail" mailing label was not placed on the correspondence prior to the original mailing. However, if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c) through (e), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) or 1.10(e). To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.

Since the filing of correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), aff 'd without opinion, 95 F.3d 1166 (Fed. Cir. 1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by

the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.); Vincent v. Mossinghoff, 230 USPQ 621 (D.D.C. 1985) (misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pat. 1985) (counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); In re Chicago Historical Antique Automobile Museum, Inc., 197 USPQ 289 (Comm'r Pat. 1978) (since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

ANALYSIS

Petitioner has not shown that the response was filed in compliance with § 1.10. A review of the response as petitioner maintains it was filed on August 8, 2005 reveals that it fails to include the "Express Mail" mailing label number on the paper. As explained above failure to include the "Express Mail" mailing label number on the paper will not be excused. Moreover, per MPEP 513 set forth above, relief under 37 CFR 1.10(e) will not be granted where applicant has failed to include the "Express Mail" mailing label number on the paper.

Nonetheless, a review of the petition reveals that the response as petitioner maintains it was filed on August 8, 2005 identified the wrong application number. Further investigation revealed that the papers with a date of receipt of August 8, 2005 were entered in the misidentified application. This has been corrected. The papers filed August 8, 2005, have been "moved" from the electronic record of the incorrectly identified application to the record of the instant application.

CONCLUSION

In view thereof, the notice of abandonment mailed April 17, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1714 has been advised of this decision. The application file is, thereby, forwarded to the Technology

Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response filed August 8, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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THE LAW OFFICE OF JOHN T WHELAN LLC
SUITE 204
135 WEST DARES BEACH ROAD
PRINCE FREDERICK MD 20678

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Bradley Russell White, Sr.	:	
Application No. 11/154,856	:	ON PETITION
Filed: June 17, 2005	:	
Attorney Docket No. WRIGHT-1	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 19, 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 publication fee in response to the Notice of Allowance mailed August 21, 2008. This Notice set a statutory period for reply of three (3) months for applicant to pay the issue and publication fee. Applicant submitted transmittal form PTO-85 on September 8, 2008, in which he included an authorization to charge the issue and publication fee to Deposit Account No. 50-3879. However, when the Office attempted to charge the issue and publication fee on that date, the deposit

account lacked sufficient funds for the publication fee (the Office did successfully charge the issue fee). Accordingly, the application became abandoned on November 22, 2008. A Notice of Abandonment was mailed on December 16, 2008.

On renewed petition, petitioner would need to submit Deposit Account statements for the applicable period to establish that the deposit account contained sufficient funds on September 8, 2008.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, 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

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THE LAW OFFICE OF JOHN T. WHELAN, L.L.C.
SUITE 204
135 WEST DARES BEACH ROAD
PRINCE FREDERICK MD 20678

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APR 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Bradley R. **WRIGHT, SR.**	:	
Application No. 11/154,856	:	DECISION ON PETITION
Filed: June 17, 2005	:	
Attorney Docket No. **WRIGHT-1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 09, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the publication fee on or before November 21, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 21, 2008, which set a statutory period for reply of three (3) months. 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 payment of the publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the publication fee payment 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

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BUTLER, SNOW, O'MARA, STEVENS
& CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS, TN 38119

In re Application of	:	
Robert J. Bean	:	
Application No.: 11/154,860	:	ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. 023131.50289	:	

This is in response to the petition under 37 CFR 1.137(b) filed April 5, 2006.

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

A "Notice to File Corrected Application Papers" (the "Notice") was mailed by the Office on July 13, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an abstract to be filed. A complete response was not received within the allowable period, and the application became abandoned on September 14, 2005. A Notice of Abandonment was mailed on March 17, 2006.

The abstract was received on April 5, 2006.

This application is being directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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AND APPLE COMPUTER, INC.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1089

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OFFICE OF PETITIONS

In re Application of	:	
Randy Ubillos	:	
Application No. 11/154,864	:	DECISION ON PETITION
Filed: June 15, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P3858US1(60108-0052)	:	

This is a decision on the petition, filed June 26, 2006, 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 5, 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 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 February 15, 2007 has been mailed under separate cover.

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

This application is being referred to Technology Center Art Unit 2628 for appropriate action in the normal course of business on the reply received October 23, 2006 to the non-final Office action of June 19, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRAGULJAC & KALNAY, LLC – ORACLE
4700 ROCKSIDE ROAD
SUMMIT ONE, SUITE 510
INDEPENDENCE, OH 44131

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven Viavant	:	
Application No. 11/154,867	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. 27252-32	:	

This is a decision on the petition, filed August 5, 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 non-final Office action mailed November 6, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 5, 2009.

Petitioner asserts that the Office action dated November 6, 2008 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

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

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

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

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being referred to the Technology Center technical support staff of Art Unit 2156 for re-mailing the Office action of November 6, 2008. The period for reply will run from the mailing date of the Office action.

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100412

DATE : April 16, 2010

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction on Patent No.: 7,539,929

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The request for Certificate of Correction on Patent No. 7,539,929 dated on 4/14/2010 is approved.

/PMC/
4/16/2010

Kevin Ellis
Supervisor Patent Examiner
Technology Center 2100

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments:

OIPE
JAN 30 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of : James F. KLAUSNER et al.

Application No.: 11/154,890 Examiner: Not Yet Assigned

Date Filed: June 16, 2005 Group: 1723

For: **DIFFUSION DRIVEN WATER PURIFICATION APPARATUS AND PROCESS**

Certificate of Transmission/Mailing
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited as first class mail with the U.S. Postal Service in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 1/26/06

Neil B. Jetter, Registration No. 46,803

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)(2)(ii) Energy

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

Sir:

Pursuant to 37 CFR §1.102(c)(2)(ii) and MPEP 708.02, Applicants hereby Petitions to Make Special for an advancement of examination the above-described United States Patent Application. Since the Application qualifies under 37 C.F.R. § 1.102(c), no fee is believed due in connection with this petition. However, should a fee be determined to be required, the Commissioner is hereby authorized to charge any fees due with the filing of this paper or credit any overpayment to Deposit Account No. 50-0951.

The invention is entitled "DIFFUSION DRIVEN WATER PURIFICATION APPARATUS AND PROCESS". The invention describes an apparatus for purifying water, such as for desalinization, which includes a source of a heated air stream, the heated air stream having

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

{WP280242;1}

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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OSTROLENK, FABER, GERB AND SOFFEN, LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, N.Y. 10036-8403

COPY MAILED

MAY 21 2008

OFFICE OF PETITIONS

Applicant: Enzinger et al.
Appl. No.: 11/154,916
Filing Date: June 16, 2005
Title: SYSTEM AND METHOD FOR REDUCING THE LOADS ACTING ON THE FUSELAGE STRUCTURE IN MEANS OF TRANSPORT
Attorney Docket No.: P/4348-53
Pub. No.: 2007/0018054
Pub. Date: January 25, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 19, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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JAN 22 2007

OFFICE OF PETITIONS

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:
Osterlanger, et al.	: DECISION ON PETITION
Application No. 11/154,926	:
Filed: June 16, 2005	:
Atty. Dkt. No.: 188.589	:

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 12, 2007.

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 non-final Office action mailed June 26, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 8, 2007.

Petitioners argue non-receipt of the Notice mailed June 26, 2006.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. However, for unknown reasons, the Office communication was returned to the Office as undeliverable.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

The application file is being forwarded to Technology Center 3600 for re-mailing of the non-final Office action. The period of time for reply will be reset in the newly mailed non-final 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
United States Patent and Trademark Office
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BOSWELL IP Law
601 Union Street
SUITE 4200
SEATTLE WA 98101-4036

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of :
Eraker et al. :
Application No. 11/154938 : ON PETITION
Filing or 371(c) Date: 06/16/2005 :
Title of Invention: :
MAP-BASED SEARCH FOR REAL :
ESTATE SERVICE PROVIDERS :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 5, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the final Office action, mailed April 29, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on July 30, 2008. A Notice of Abandonment was mailed November 14, 2008.

Applicant files the present petition and the response, a continuation application, was filed February 5, 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 continuation application; (2) the petition fee; and (3) a proper statement of unintentional delay.

Accordingly, the petition is granted.

This application is being revived for continuity purposes, and is again abandoned in favor of the continuing application, serial no. 12/700736, filed February 5, 2010.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Martin Weston	: DECISION ON REQUEST FOR
Patent Number	: 7656462	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **999** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Jorn Regul, et al.	:	
Application No. 11/154,943	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 543822015000	:	FROM RECORD
	:	

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

Mail Date: 04/20/2010

Applicant	: Steven R. Donovan	: DECISION ON REQUEST FOR
Patent Number	: 7607138	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,974	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **952** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 04/20/2010

Applicant	: Nick R. Mann	: DECISION ON REQUEST FOR
Patent Number	: 7629292	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/154,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **871** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 05/17/2010

Applicant : Nick R. Mann
Patent Number : 7629292
Issue Date : 12/08/2009
Application No : 11/154,976
Filed : 06/15/2005

: 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 **917** 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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CANTER COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of :
Alan J. HUTCHINSON et al :
Application No. 11/154,986 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. NEU-0008 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 2, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 3, 2009.

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

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 $865.00 extension of time fee submitted with the petition on September 22, 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.

This application is being referred to Technology Center AU 1600 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AUG 13 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,491,746	:	
McDonald, et al.	:	DECISION DISMISSING
Application No. 11/154,989	:	REQUEST FOR
Issue Date: February 17, 2009	:	RECONSIDERATION OF
Filed: June 15, 20025	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
09367.0026-01000	:	

This is in response to the DETERMINATION OF PATENT TERM ADJUSTMENT-POST GRANT, filed February 24, 2009, and in duplicate on March 12, 2009, which is properly treated pursuant to 37 CFR §1.705(d). Patentees requests that the determination of patent term adjustment be corrected from five hundred thirteen (513) days to seven hundred sixty-three (763) 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 513 days.

BACKGROUND

This application was filed on June 15, 2005. On February 17, 2009, the application matured into U.S. Patent No. 7,491,746 with a revised patent term adjustment of 513 days. The Office determined that the 247 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 516

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

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (4)[3,4] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 516 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 3 days, the patent issued with a revised patent term adjustment of 513 (516 - 3) days.

On February 24, 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 763 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:

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

[2] The application was pending three years and 247 days.

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

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> ...
>
> (4) 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.

[4] A first Office action was not mailed until January 10, 2008, fourteen months and 513 days after the application filing date, June 15, 2005. The patent did not issue until four months and 3 days after the issue fee payment was received on October 14, 2008.

> In view of the Federal District Court for the District of Columbia in Wyeth v. Dudas on September 30, 2008, patentees submit that they are entitled to a total patent term adjustment of 763 days, which is the sum of 247 days of patent term adjustment due to exceeding the three year pendency and 516 days due to USPTO delay in prosecution. There is no overlap between the patent term adjustment due to exceeding the three year pendency and the patent term adjustment due to USPTO delays in prosecution.

Determination of Patent term Adjustment-Post Grant, filed February 24, 2009, p. 2.

OPINION

At the outset, it is noted that the patentees do not account for the applicant delay in responding to the Notice of Allowance and Issue Fee Due mailed July 11, 2008, which resulted in a three day reduction to the period of adjustment pursuant to 37 CFR 1.703. The Notice of Allowance and Issue Fee Due was mailed on July 11, 2008, and the issue fee was received on October 14, 2008. It is noted that October 11, 2008, was a Saturday and that October 12, 2008, was a Sunday. It is further noted that Monday, October 13, 2008, was a federal holiday. Accordingly, pursuant to 37 CFR 1.7, the issue fee received on October 14, 2008, was within the three month statutory period for reply set forth by the Notice of Allowance and Issue Fee Due. In determining the period of reduction of patent term adjustment pursuant to 37 CFR 1.704, the actual date of receipt of the reply in the Office is determinative and no consideration is given for whether the expiration of the period under 37 CFR 1.704 falls on a weekend or federal holiday. Patentees failure to respond to the Notice of Allowance within three months after the mailing of the Notice of Allowance and Issue Fee Due, as per 37 CFR 1.704(b), resulted in a reduction to the period of adjustment under 37 CFR 1.703. Specifically, the Office determined that during the period of October 11, 2008, through October 13, 2008, patentees failed to engage in reasonable efforts to conclude the prosecution of the application. As such, a reduction of three days for applicant delay was entered.

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg.

---

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

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

54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), June 15, 2005, and ending on the date the patent issued, February 17, 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), 516 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), 247 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 247 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 516 days of patent term adjustment under 37 CFR 1.702(a)(1) and (4). Entry of both the 516 days and the 247 days is neither permitted nor warranted. 516 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 513 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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OCT 1 0 2008

OFFICE OF PETITIONS

CHAN LAW GROUP LC
1055 W. 7TH ST, SUITE 1880
LOS ANGELES, CA 90017

In re Application of	:	
Weizhong TU	:	
Application No. 11/154,999	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 1216.701	:	FROM RECORD
	:	

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 8, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Lisa A. Karczewski on behalf of the attorneys associated with Customer No. 26129.

The attorneys associated with Customer No. 26129 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: WEIZHONG TU
16 WENCHANG STREET,
LANE 39, ROOM 1101
NINGBO, CHINA

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DALLAS TX 75380

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:
Jack C. Wybenga et al.	:
Application No. 11/155,003	: DECISION ACCORDING STATUS
Filed: June 16, 2005	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 2004.02.002.BN0	:

This is in response to the petition filed September 30, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on June 16, 2005, naming Jack C. Wybenga, Patricia K. Sturm, Yingwei Wang and Pradeep Samudra as joint inventors but without a signed declaration. Accordingly, on July 28, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed only by joint inventors Sturm and Samudra and the instant petition under 37 CFR 1.47(a) were filed. The petition argues that joint inventors Wybenga and Wang refuse to sign the oath or declaration and thus by their actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to Mr. Wybenga and Mr. Wang and that neither has returned an executed oath or declaration. Neither have the non-signing inventors contacted the applicant regarding the oath or declaration or any matters related to the application.

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

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

This matter will be referred to Technology Center 2661 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JACK C. WYBENGA
2129 STONE CREEK
PLANO, TX 75075

YINGWEI WANG
7575 FRANKFORD ROAD, #2417
DALLAS, TX 75252

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of
Jack C. Wybenga et al.
Application No. 11/155,003
Filed: June 16, 2005
For: METHOD AND SYSTEM FOR SWITCHING FRAMES IN A SWITCHING SYSTEM

Dear Mr. Wybenga and Mr. Wang:

You are named as joint inventors in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

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JUL 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Wu et al.	:	DECISION ON PETITION
Application No. 11/155,008	:	TO WITHDRAW
Filed: June 16, 2005	:	FROM RECORD
Attorney Docket No. 1146-013801-US(STU)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2009.

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

A review of the file record indicates that the power of attorney to practitioners associated with Proskauer Rose LLP, were revoked by the assignee of the patent application on July 10, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: PERMAN & GREEN, LLP
99 HAWLEY LANE
STRATFORD, CT 06614

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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
11/155,010	06/15/2005	2615	1015	NAV1P004C1	19	34	4

CONFIRMATION NO. 1216

CORRECTED FILING RECEIPT

OC000000018126420

022434
BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 02/23/2006

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)

Stefan Roever, Los Altos Hills, CA;
Kevin Collins, Folsom, CA;
Josh C. Ding, San Jose, CA;
Alex F. Clark, Campbell, CA;

Assignment For Published Patent Application

Navio Systems, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **022434**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/232,861 08/30/2002
which claims benefit of 60/380,787 05/15/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/155,010

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods and apparatus for a title transaction network

Preliminary Class

386

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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KENYON & KENYON
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Aaron Partridge	: DECISION ON REQUEST FOR
Patent Number	: 7595539	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,035	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **620** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH ST
PHILADELPHIA PA 19103-4196

In re Application of	:	
Mark J. Newton, Mark W. Tucker	:	DECISION ACCORDING STATUS
Application No. 11/155,129	:	UNDER 37 CFR 1.47(a)
Filed: June 16, 2005	:	
Attorney Docket No. D1815-00132	:	

This is in response to the "STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (MARK TUCKER)", filed October 3, 2005, which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on June 16, 2005, without an executed oath or declaration. Accordingly, on July 29, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on October 3, 2005, made timely by including a Certificate of Mailing dated September 28, 2005. Accompanying the petition was a declaration executed by inventor Mark J. Newton, with the signature block for Mark W. Tucker left blank.

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 petition, Rule 47 applicant has included a statement from attorney Peter J. Cronk, attesting that he spoke with Tucker during a telephone conversation on September 8, 2005, during which Tucker indicated that he would not sign the declaration. While the record does not make it clear that Tucker was ever presented with the application papers, it is concluded based upon the facts presented on petition that Tucker knew what he was being asked to sign.

While Rule 47 applicant did not provide a statement of Tucker's last known address, that address is presumed to be the address listed on the declaration.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby <u>accorded Rule 1.47(a) status</u>.

The $200 petition fee has been charged to Deposit Account No. 04-1679, as authorized.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the address provided in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 3765 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MARK W TUCKER
PO BOX 336
WAUBAUSHERE ON L0K 2CO
CANADA

In re Application of	:	
Mark J. Newton, Mark W. Tucker	:	
Application No. 11/155,129	:	
Filed: June 16, 2005	:	
Title: Improved Enhanced Thickness Fabric and Method of Making Same	:	LETTER

Dear Mr. Tucker:

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

Peter J. Cronk
Duane Morris LLP
30 South 17th St
Philadelphia PA 19103
215-979-1252

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH ST
PHILADELPHIA PA 19103-4196

In re Application of	:	
Mark J. Newton, Mark W. Tucker	:	DECISION ACCORDING STATUS
Application No. 11/155,129	:	UNDER 37 CFR 1.47(a)
Filed: June 16, 2005	:	
Attorney Docket No. D1815-00132	:	

This is in response to the "STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (MARK TUCKER)", filed October 3, 2005, which is being treated as a petition under 37 CFR 1.47(a).

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

The above-identified application was filed on June 16, 2005, without an executed oath or declaration. Accordingly, on July 29, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on October 3, 2005, made timely by including a Certificate of Mailing dated September 28, 2005. Accompanying the petition was a declaration executed by inventor Mark J. Newton, with the signature block for Mark W. Tucker left blank.

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

COPY MAILED

NOV 2 - 2006

Director's Office
Office of Patent Publication

ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

In re Application of	:	
Kondo, Tetsuya,	:	
Application No. 11/155,135	:	**DECISION ON PETITION**
Filed: June 16, 2005	:	
Attorney Docket No. MM4428CON.2	:	

This is a decision on the Petition To Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181, received in the United States Patent & Trademark Office (USPTO) on August 11, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the Issue Fee and Publication Fee, as required in the Notice of Allowance and Fee(s) Due mailed on February 28, 2006. The Notice of Abandonment, mailed on July 26, 2006 indicates, "The submitted fee of $0 is insufficient. A balance of $1,700 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on June 5, 2006, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No. 01-1944. On July 6, 2006, when an attempt was made by the Accounting Technician in the Office of Initial Patent Examinations (OIPE) to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquiries with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703-308-9250 ext. 167.

Brenda J. Moore

Brenda J. Moore
Quality Operations Assistant
Office of the Director
Office of Patent Publications

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

ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

COPY MAILED

JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Kondo, Tetsuya	:	
Application No. 11/155,135	:	ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. MM4428CON.2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner authorized payment of the issue and publication fees. However, they were previously submitted on August 11, 2006. The $1700.00 submitted with the instant petition has been credited to petitioner's deposit account as authorized.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

COPY MAILED

DEC 1 5 2006

OFFICE OF PETITIONS

In re Application of :
Lang, Dibble and Murphy :
Application No. 11/155,136 :
Filed: June 16, 2005 :
For: Calcium Fortification of Bread Dough :

DECISION ON PETITIONS

This is a decision on the petition under 37 CFR 1.48(a), filed October 20, 2006, requesting correction of inventorship to add a person, who through error was not named as an inventor. Additionally, this is a decision on the petition under 37 CFR 1.182, filed October 20, 2006, to change the order of the names of the inventors.

Pursuant to 37 CFR 1.48(a), an amendment of the inventorship requires:

1) A request to correct the inventorship that sets forth the desired inventorship change;

2) A statement from each person being added as an inventor 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, 1.43 or § 1.47;

4) The processing fee set forth in § 1.17(i); and

5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

In view of the papers filed on October 20, 2006, the Office concludes that the above-identified application, as filed, through error and without deceptive intent, improperly set forth the inventorship. As applicants have met the requirements of 37 CFR 1.48(a), the petition is **granted**. The inventorship of this application has been changed to add Gregory B. Murphy as a joint inventor.

Additionally, applicants submitted the present petition to change the order of the names of the inventors and an Application Data Sheet showing the new order of inventor names.

The petition under 37 CFR 1.182 is **granted**. The order of the names of the inventors has been changed as follows: Kevin W. Lang, James W. Dibble, and Gregory B. Murphy.

The Office of Petitions has changed the order of the names of the inventors in the USPTO computer records and printed a new bibliographic data sheet, which will be scanned into the Image File Wrapper. A corrected filing receipt, reflecting the requested change, accompanies this decision.

This matter is being referred to the Office of Patent Publication.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/155,136	06/16/2005	1761	2980			47	5

CONFIRMATION NO. 1147

CORRECTED FILING RECEIPT

OC000000021618015

65989
KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-4003

Date Mailed: 12/14/2006

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)

Kevin W. Lang, Llyod Neck, NY;
James W. Dibble, Port Jefferson, NY;
Gregory B. Murphy, Sands Point, NY;

Power of Attorney: The patent practitioners associated with Customer Number **65989**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/770,715 02/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 07/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/155,136

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CALCIUM FORTIFICATION OF BREAD DOUGH

Preliminary Class

426

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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/155,136	06/16/2005	James W. Dibble	

CONFIRMATION NO. 1147

OC000000021617973

65989
KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-4003

Date Mailed: 12/14/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/20/2006.

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

Christina T. Donnell
CHRISTINA T DONNELL
OP (571) 272-3211

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/155,136	06/16/2005	James W. Dibble	4517-4003US1

CONFIRMATION NO. 1147

OC000000021617950

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101

Date Mailed: 12/14/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/20/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Christina T. Donnell
CHRISTINA T DONNELL
OP (571) 272-3211

NEW ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/28/07

Paper No.: ——

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/155136 Patent No.: 7169412 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**.

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: Please ignore previous response.

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

1761
Art Unit

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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
11/155,143	06/16/2005	3673	500	2619.2.2	13	20	3

CONFIRMATION NO. 4176

CORRECTED FILING RECEIPT

OC000000016762432

28049
PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 08/12/2005

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)

Arthur L. Moss, Logan, UT;

Power of Attorney:

A Pate–36234
Gary Pierce–38019
Hal Baird–42284
Daniel Nelson–52063
Warren Pate–54364

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/155,143

Projected Publication Date: 12/21/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Fine-grained fill reinforcing apparatus and method

Preliminary Class

405

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).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

COPY MAILED

FEB 21 2006

OFFICE OF PETITIONS

In re Application of	:	
George H. Vincent et al	:	
Application No. 11/155,145	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 33748.36	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed January 25, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

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

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3637 for action on the merits commensurate with this decision.

Dinn Potter for

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN M. COLBY
P. O. BOX 60092
PALO ALTO CA 94306

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application
Colby, et al.
Application No. 11/155,146
Filed: June 16, 2005
Dkt. No.: SMC-23

: PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705," filed January 11, 2010. This matter is being properly treated under 37 CFR 1.705(b). This is also a decision on the petition under 37 CFR 1.181 for refund of the $200.00 patent term adjustment application fee.

DECISION UNDER 37 CFR 1.705(b)

Applicants submit that the correct patent term adjustment to be indicated on the patent is 1,434 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis of 35 USC 154(b)(1)(A) and (B).

The request for reconsideration of patent term adjustment is **DISMISSED AS PREMATURE IN PART and GRANTED IN PART**.

Applicants have not identified any specific concern under 35 USC 154(b)(1)(B). However, insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date pursuant to 35 USC 154(b)(1)(B), the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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

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

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

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).

Applicants further request reconsideration of the patent term adjustment pursuant to 35 USC 154(b)(1)(A). Applicants have not identified any specific concerns under 35 USC 154(b)(1)(A).

However, the calculation of adjustment has been carefully reviewed and it is noted that the Office neglected to assess an adjustment under 37 CFR 1.702(a)(1). Accordingly, as of the time of allowance, the application was entitled to an adjustment of 1,237 days. The adjustment commenced August 17, 2006, the day after the date that is 14 months after the date that the application was filed, and ended January 4, 2010, the date that the Notice of Allowance was mailed. See, 37 CFR 1.703(a)(1).

In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 1,237 days.

Accordingly, the application for patent term adjustment under 37 CFR 1.705(b) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required pursuant to 37 CFR 1.705(b).

DECISION UNDER 37 CFR 1.181

Applicants herein request a refund of the patent term adjustment application fee of $200.00. As the fee is required for reconsideration of the patent term adjustment, the fee will not be refunded.

Accordingly, the petition under 37 CFR 1.181 is **DISMISSED**.

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

PALM INTRANET

Day : Monday
Date: 3/8/2010
Time: 13:50:40

PTA Calculations for Application: 11/155146			
Application Filing Date:	06/16/2005	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1237
PTO Delay Adjustment:	1237		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	03/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	1237		
43	01/04/2010	MAIL NOTICE OF ALLOWANCE			
42	12/30/2009	ISSUE REVISION COMPLETED			
41	12/30/2009	DOCUMENT VERIFICATION			
40	12/30/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	12/30/2009	NOTICE OF ALLOWABILITY			
35	09/09/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	11/19/2009	CASE DOCKETED TO EXAMINER IN GAU			
33	11/04/2009	CASE DOCKETED TO EXAMINER IN GAU			
30	10/05/2009	CASE DOCKETED TO EXAMINER IN GAU			
29	10/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
28	09/28/2009	TRANSFER INQUIRY TO GAU			
27	07/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
26	04/16/2008	CASE DOCKETED TO EXAMINER IN GAU			
25	04/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
24	04/01/2008	TRANSFER INQUIRY TO GAU			
23	03/14/2008	TRANSFER INQUIRY TO GAU			
22	02/10/2008	TRANSFER INQUIRY TO GAU			
21	01/31/2008	TRANSFER INQUIRY TO GAU			
20	12/07/2007	TRANSFER INQUIRY TO GAU			
19	11/26/2007	TRANSFER INQUIRY TO GAU			
18	10/03/2007	TRANSFER INQUIRY TO GAU			
17	11/22/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	08/15/2006	MISCELLANEOUS INCOMING LETTER			

15	09/09/2005	REFERENCE CAPTURE ON IDS			
14.7	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	07/14/2005	APPLICATION RETURN FROM OIPE			
12	07/14/2005	APPLICATION IS NOW COMPLETE			
11	07/14/2005	APPLICATION RETURN TO OIPE			
10	07/13/2005	APPLICATION RETURN FROM OIPE			
9	07/14/2005	APPLICATION IS NOW COMPLETE			
8	07/13/2005	APPLICATION RETURN TO OIPE			
7	07/13/2005	APPLICATION DISPATCHED FROM OIPE			
6	07/13/2005	APPLICATION IS NOW COMPLETE			
5	06/16/2005	PGPUBS NONPUB REQUEST			
4	06/29/2005	CLEARED BY OIPE CSR			
3	06/29/2005	CASE CLASSIFIED BY OIPE			
2	06/25/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/16/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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

Mail Date: 04/21/2010

Applicant	: Kapil Sood	: DECISION ON REQUEST FOR
Patent Number	: 7647508	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,148	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1078** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of	:	
Pasha Sadri, et al.	:	
Application No. 11/155,158	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. 085804-704600	:	FROM RECORD
	:	

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 Foerster 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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32ND FLOOR
CHICAGO, IL 60606

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of
Steven M. Kriegler et al.
Application No. 11/155,200
Filed: June 17, 2005
Attorney Docket No. 04-234-A

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on January 9, 2006 (January 4, 2006 certificate of mail date).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). and may include an oath or declaration executed by the 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 June 17, 2005, without an oath or declaration. Accordingly, a Notice to File Missing Parts was mailed August 4, 2005 requiring an executed oath or declaration and surcharge for its late filing.

In response, an oath or declaration naming Steven M. Kriegler, Avtar S. Roopra, Thomas P. Sutula and Carl E. Stafstrom as joint inventors, was filed with the instant petition and a request for a three month extension of time. The declaration was signed by all joint inventors except Mr. Kriegler. The present petition seeks status under 37 CFR 1.47 claiming that despite diligent efforts, petitioners have been unable to obtain an oath or declaration from Mr. Kriegler, to have him join in the applicaiton.

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 items (1) set forth above.

In regards to item (1), aside from the bald assertion that petitioners have not been able to obtain an executed oath or declaration from Mr. Kriegler and that the efforts used to do so were attempted via US mail, electronic mail and telephone, petitioners have not provided any details to substantiate their claims. Neither has sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

The evidence presented however is not sufficient to show that either in spite of diligent efforts, Mr. Kriegler could not be located or that Mr. Kriegler had the benefit of reviewing the application and chose not to do so, thus the requirements for status under 37 CFR 1.47(a) have not been met.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing 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.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made verbally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

As well, petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration.

Finally, if it is found that the joint inventor is residing at a different address than that listed in the petition, petitioners should provide a new statement of the last known address in a renewed petition.

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 fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(d).

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APR 2 0 2006

OFFICE OF PETITIONS

In re Application of
Steven M. Kriegler et al.
Application No. 11/155,200
Filed: June 17, 2005
Attorney Docket No. 04-234-A

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) DISMISSED AS
: INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed January 9, 2006 and was dismissed in a decision mailed January 25, 2006.

Papers filed on March 30, 2006, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed January 25, 2006, included a declaration signed by the previously non-signing inventor, Steven Kriegler , in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed March 30, 2006 is **DISMISSED** as involving moot issues.

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 any further consideration under 37 CFR 1.47(a).

This matter will be referred to Technology Center 1614 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

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INTEL CORPORATION
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Lu, et al.	:	
Application No. 11/155,208	:	ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. 42P21368	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 3, 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 Notice of Non-Compliant Amendment mailed August 11, 2008. This Notice set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on September 12, 2008. A Notice of Abandonment was mailed on January 26, 2009.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of a response to the Notice of Non-Compliant Amendment.

The application is being forwarded to Group Art Unit 2891 for consideration of the reply, filed February 3, 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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KING PHARMACEUTICALS, INC.
400 CROSSING BOULEVARD
BRIDGEWATER, NJ 08807

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OFFICE OF PETITIONS

In re Application of	:
Moorman et al.	:
Application No. 11/155212	: DECISION ON PETITIONS
Filing or 371(c) Date: 06/16/2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 11201-859-999	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1623 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Christina Tartera Donnell

Christina Donnell
Senior Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/155,212	06/16/2005	1623	640	11201-859-999	1	23	1

CONFIRMATION NO. 3838

CORRECTED FILING RECEIPT

OC000000022678935

57999
KING PHARMACEUTICALS, INC.
400 CROSSING BOULEVARD
BRIDGEWATER, NJ 08807

Date Mailed: 02/28/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Allan R. Moorman, Durham, NC;
Michael Scannell, Holly Springs, NC;
Thiagarajan Balasubramanian, Cary, NC;
Russell Outcalt, Cary, NC;
Leung Edward, Cary, NC;

Assignment For Published Patent Application

King Pharmaceuticals Research & Development, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **57999**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/958,470 10/04/2004 ABN
which claims benefit of 60/508,804 10/03/2003
and is a CIP of 10/281,291 10/24/2002 PAT 6,951,932
which claims benefit of 60/335,169 10/25/2001
and claims benefit of 60/375,723 04/26/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/155,212

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

SYNTHESIS OF 2-ARALKYLOXYADENOSINES, 2-ALKOXYADENOSINES, AND THEIR ANALOGS

Preliminary Class

536

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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MITCHELL P. BROOK
C/O LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Sprague	:	
Application No. 11/155,214	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. 27458-1030,	:	

This is a decision on the petition, filed September 11, 2007, 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 nonfinal Office action mailed January 17, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 1, 2007.

Petitioner asserts that the Office action dated January 17, 2007 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. The evidence presented shows that the nonreceived Office action was entered into petitioner's databases on July 23, 2007, the date that petitioner was notified that the application was abandoned. 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 3679 for re-mailing the Office action of January 17, 2007. The period for reply will run from the mailing date of the Office action.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Frost Brown Todd, LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202

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JUL 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Angelo Lamar Flamingo et al.	:	
Application No. 11/155,237	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 0105528-0533113	:	FROM RECORD
	:	

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 16, 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 B. Ulmer on behalf of all attorneys of record who are associated with customer number 26874. All attorneys/agents associated with customer number 26574 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

A requirement for restriction/election office action was mailed on May 24, 2007. Failure to timely reply will result in the abandonment of this application.

The correspondence address of record has been changed to the address noted on the request to withdraw.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Angelo Flamingo
1205 State Street
Ottawa, IL 61350

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/155,237	06/17/2005	Angelo Lamar Flamingo	0105528-0533113

CONFIRMATION NO. 3043

OC000000024639559

26874
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

Date Mailed: 07/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Snabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

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MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Zhengming Chen, et al.	:	
Application No. 11/155,263	:	DECISION GRANTING PETITION
Filed: June 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 379612-351US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 11, 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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OSHA . LIANG L.L.P. / SLB
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Application of	:	
Colin M. SAYERS	:	
Application No. 11/155,278	:	ON PETITION
Filed: June 17, 2005	:	
Attorney Docket No. 09469/148001:110.0091	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed May 16, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 17, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election and amendment; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of May 16, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3663 for appropriate action on the concurrently filed election.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Schlumberger Information Solution
5599 San Felipe, Ste. 1208
Houston, TX 77056

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EXXONMOBIL RESEARCH & ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE NJ 08801-0900

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Feimer et al.	:	
Application No. 11/155,281	:	
Filed: July 17, 2005	:	
Attorney Docket No. GJH-0541	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1797 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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Director's Office
Group 3700

James M. Durlacher
Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, Iandiana 46204-5137

In re application of William J. Hyslop	: :	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 11/155,284 Filed: June 17, 2005	: :	

For: **LOCATOR RING INSERT WITH BAFFLES**

This is a decision on the petition filed on June 17, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 9/9/05

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CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Carrie L. Wyse	:	
Application No. 11/155,291	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 12711-14	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph A. Yosic and attorneys/agents been revoked by the assignee of the patent application on July 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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TWO EMBARCADERO CENTER
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OFFICE OF PETITIONS

In re Application of	:	
Youngquist, et al.	:	
Application No. 11/155,302	:	NOTICE
Filed: June 17, 2005	:	
Attorney Docket No. 026693-011710US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent 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.

As authorized in the petition, deposit account no. 20-1430 will be charged the $700.00 deficiency.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Carrie L. Wyse et al.	:	
Application No. 11/155,303	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 12711-13	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph Yosick and those practitioners associated with application have been revoked by the assignee of the patent application on July 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW, LLP
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OFFICE OF PETITIONS

In re Application of
William T. Dalebout, et al.
Application No. 11/155,328
Filed: June 16, 2005
Attorney Docket No. 13915.48

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision in response to the petition filed November 21, 2007, which is being treated 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 prior-filed nonprovisional Application No. 10/916,684, filed August 11, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3764 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.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/155,328	06/16/2005	3764	1380	13915.48	27	3

CONFIRMATION NO. 2550

CORRECTED FILING RECEIPT

22913
WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

OC000000028759904

Date Mailed: 03/11/2008

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)

William T. Dalebout, North Logan, UT;
Gaylen W. Ercanbrack, Logan, UT;
Jaremy T. Butler, Paradise, UT;
Robert L. Alleman, North Logan, UT;

Power of Attorney: The patent practitioners associated with Customer Number 022913

Domestic Priority data as claimed by applicant

This application is a CIP of 10/916,684 08/11/2004

Foreign Applications

If Required, Foreign Filing License Granted: 07/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/155,328**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Foldable elliptical exercise machine

Preliminary Class

482

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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CLIFFORD G. FRAYNE
136 DRUM POINT RD
SUITE 7A
BRICK, NJ 08723

Mail Date: 04/27/2010

Applicant	: Edgar Alzner	: DECISION ON REQUEST FOR
Patent Number	: 7259385	: RECALCULATION of PATENT
Issue Date	: 08/21/2007	: TERM ADJUSTMENT IN VIEW
Application No	: 11/155,365	: OF WYETH
Filed	: 06/20/2005	:
		:

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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ALEXANDRIA, VA 22313-1450
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Paper No. None

KEY SAFETY SYSTEMS, INC.
PATENT DEPARTMENT
5300 ALLEN K BREED HIGHWAY
LAKELAND FL 33811-1130

COPY MAILED

MAR 07 2006

OFFICE OF PETITIONS

In re Application of	:
John Bell, Amaya Munoz, Martyn Palliser, and	:
Andrew Park	:
Application No. 11/155,366	:
Filed: June 20, 2005	:
Attorney Docket No. 1568 US	:
Title: SEAT BELT RETRACTOR	:

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed December 21, 2005.

On June 20, 2005, the application was filed, identifying John Bell, Amaya Munoz, Martyn Palliser, and Andrew Park as joint inventors. The application was deposited without an executed oath or declaration. On July 15, 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. This Notice set a two-month period for reply.

[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.

Along with the present petition, Petitioner has submitted, *inter alia*, a declaration which has been executed by Messrs. Bell and Palliser, the petition fee and surcharge, and a statement of facts.

Petitioner has also submitted a five-month extension of time, however it is noted that a mere four-month extension of time is all that was required to make this response timely. As such, the overpayment has been refunded to Petitioner's Deposit Account.

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 addresses of the non-signing inventors. Petitioner has asserted that one of the signing joint inventors provided each of them a copy of the declaration. Where a refusal of the inventors 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.[2] As no mention has been made of any presentation of the application to either of the non-signing joint inventors, 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 inventors. Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

It follows that since it has not been shown that a complete copy of the application was sent to the inventors, 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 inventors 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[3].

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[4], hand-delivery[5], or facsimile[6].

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2 See MPEP 409.03(d).
3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

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

KEY SAFETY SYSTEMS, INC.
PATENT DEPARTMENT
5300 ALLEN K BREED HIGHWAY
LAKELAND FL 33811-1130

COPY MAILED
MAY 17 2006
OFFICE OF PETITIONS

In re Application of	:	
John Bell, Amaya Munoz, Martyn	:	
Palliser, and Andrew Park	:	DECISION NOTING JOINDER AND
Application No. 11/155,366	:	DISMISSING RENEWED PETITION
Filed: June 20, 2005	:	UNDER 37 C.F.R. §1.47(A) AS
Attorney Docket No. 1568 US	:	MOOT
Title: SEAT BELT RETRACTOR	:	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed April 26, 2006.

On June 20, 2005, the application was filed, identifying John Bell, Amaya Munoz, Martyn Palliser, and Andrew Park as joint inventors. The application was deposited without an executed oath or declaration. On July 15, 2005, a "Notice to File Missing

[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.

Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required. This Notice set a two-month period for reply.

The original petition was filed on December 21, 2005, and was dismissed via the mailing of a decision on March 7, 2006. With the original petition, Petitioner had submitted a declaration which had been executed by Messrs. Bell and Palliser.

With this renewed petition, Petitioner has secured an executed declaration from the previously non-signing joint inventors, and has provided a copy of the same.

As such, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED AS MOOT.**

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Richard A. Schuth (MEMC)
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

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MAR 02 2010

In re Application of Holder :
Application No. 11/155,385 : On Application For
Filing Date: June 17, 2005 : Patent Term Adjustment
Atty. Docket No. MEMC 03-1651 (28744-157) :

This is in response to the "Petition for Patent Term Adjustment Pursuant to 37 CFR § 1.705(b)" filed January 21, 2010. Applicant submits the correct patent term adjustment to be indicated on the patent is two hundred twenty-two (222) days, not sixty-one (61) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the

patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, 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 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Davide Bergamasco	: DECISION ON REQUEST FOR
Patent Number	: 7602720	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Brady D. Forrest	: DECISION ON REQUEST FOR
Patent Number	: 7590612	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,393	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **303** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Peter Hoe-Richardson	: DECISION ON REQUEST FOR
Patent Number	: 7644369	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **510** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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C/O MOFO SF
425 MARKET STREET
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OCT 19 2007

OFFICE OF PETITIONS

In re Application of	:	
LEUTHOLD, et al.	:	
Application No. 11/155,405	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. **8209.067.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 May 9, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **SEAGATE TECHNOLOGY C/O MOFO SF** has been revoked by the assignee of the patent application on June 29, 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: **SEAGATE TECHNOLOGY LLC**
C/O NOVAK DRUCE & QUIGG LLP
1000 LOUISIANA, SUITE 5350
HOUSTON, TX 77002

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Charles Holley
PO Box 29
105 Lassen Lane
Milford PA 18337

MAILED
JUN 08 2010
OFFICE OF PETITIONS

In re Application of :
HOLLEY, CHARLES :
Application No. 11/155,460 : ON PETITION
Filed: 06/18/2005 :
Title: SPEC-TRAC :

This is in response to the petition under 37 CFR 1.137(a) filed February 18, 2010, to revive the above-identified application.

On July 2, 2008, the Office mailed a final Office action which set a three-month shortened statutory period to reply. On August 1, 2008, petitioner submitted an amendment in response to the final Office action. However, the examiner mailed an Advisory Action on April 21, 2009, informing petitioner that the amendment did not place the application in condition for allowance. On May 11, 2009, applicant submitted a request for a two-month extension of time accompanied by a $245.00 fee. Unfortunately, petitioner submitted the request for an extension of time for response beyond the six-month maximum statutory period (i.e. January 2, 2009) for the submission of a timely reply. Accordingly, the application became abandoned on October 3, 2008. A Notice of Abandonment was mailed on February 18, 2010. On February 18, 2010, petitioner filed the present petition accompanied by a $100.00 fee. The Office notes that the current fee for filing a petition under 37 CFR 1.137(a) is $270.00 (leaving a balance due of $170.00).

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be: (1) a Notice of Appeal and appeal fee; (2) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; or (3) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114.

(2) The petition fee as set forth in 37 CFR 1.17(l);[1] and

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The present petition lacks the total amount due for the petition fee, the required reply to the final Office action mailed on July 2, 2008, and a showing of unavoidable delay.

The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) **will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.**

MPEP 711.03(c)(III)(B) (emphasis added).

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the full payment of the petition fee required by statute. Thus, the petition is dismissed.

This application is properly considered abandoned by operation of 35 USC § 133 for failure to prosecute. The petition under 37 CFR 1.137(a) will not be decided on its merits.

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[1] The Office notes that the $245.00 extension of time fee is untimely and refundable. If petitioner desires to file a renewed petition under 37 CFR 1.137(a), petitioner may request that the Office apply $170.00 of the extension of time fee toward the outstanding balance to complete the required petition fee of $270.00. Petitioner may request a refund of the remaining $75.00 ($245.00 - $170.00 = $75.00).

In order to revive this application, petitioner must submit either a petition under 37 CFR 1.137(a) or a petition under 37 CFR 1.137(b), accompanied by the balance of the petition fee, and the required reply to the final Office action. Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) instead of filing a renewed petition under 37 CFR 1.137(a). The Office notes:

> Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account: While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96- 1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional). Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c)(III)(C)(2). In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a). Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition

> under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b). 37 CFR 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

MPEP 711.03(c)(III)(C).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be: (1) a Notice of Appeal and appeal fee; (2) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; or (3) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114.
>
> (2) The petition fee as set forth in § 1.17(m) (currently $810.00);[2] 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 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A copy of the appropriate form for filing a petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

---

[2] As previously stated, the $245.00 extension of time fee is untimely and refundable. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of a renewed petition under 37 CFR 1.137(a), petitioner may request that the Office apply the $245.00 extension of time fee and the $100.00 fee submitted on February 18, 2010, toward the $810.00 fee for filing a petition under 37 CFR 1.137(b). Petitioner would be required to submit an additional $465.00 ($810.00 - $245.00 - $100.00 = $465.00) to complete the required $810.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries 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

Enclosure: Form PTO/SB/64

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $_____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Type or Printed name	Registration Number, If applicable
Address	Telephone Number
Address	

Enclosures:

☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Application of NIVON, Uzia et al. Serial No.: 11/155,503 Filed: June 20, 2005 For: MULTI-PLANE OPTICAL APPARATUS	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.84

The request filed on January 08, 2009, for acceptance of color drawings/photographs is treated as a Petition under 37 CFR 1.84.

The Petition is GRANTED as applicant has satisfied paragraph (a)(2) and (b)(2) of 37 CFR 1.84 as required.

The examiner has reviewed the application and the drawings have been approved. The application has been returned to Publication Branch.

Stephone B. Allen
SPE, Art Unit 2872

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/27/2010

Applicant	: Sunil P. Shah	: DECISION ON REQUEST FOR
Patent Number	: 7606240	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/155,526	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1012** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Attention: Jeffrey J. Hohenshell
Medtronic, Inc.
7601 Northland Dr.
Brooklyn Park, MN 55428

COPY MAILED

NOV 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Clague et al.	:	
Application No. 11/155,533	:	DECISION ON PETITION
Filed: June 16, 2005	:	
Attorney Docket No. P-20839.00	:	

This is a decision on the petition filed November 4, 2005 (certificate of mailing dated November 2, 2005), requesting that the application be accorded a filing date of June 16, 2005, with Figure 18 as part of the original disclosure. Applicants obtained an extension of time for response within the first month. Accordingly, the petition is filed timely.

On June 16, 2005, applicants filed the above-identified application. However, on August 2, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating, *inter alia*, that the application had been accorded a filing date of June 16, 2005, and advising applicants that Figure 18 appeared to have been omitted.

In response, on November 4, 2005 (certificate of mailing dated November 2, 2005), applicants submitted, *inter alia*, the present petition, one sheet of informal drawing Figure 18, and 44 sheets of replacement drawings. Additionally, applicants submitted a copy of their return, date-stamped postcard receipt acknowledging receipt of 44 sheets of informal drawings in the USPTO on June 16, 2005.

Upon review of the record, Figure 18, deposited on June 16, 2005, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on

June 16, 2005, included Figure 18, which was subsequently misplaced in the USPTO. Therefore, the application, including Figure 18, was complete on filing and will be granted a filing date of June 16, 2005.

The requirement for omitted Figure 18 set forth in the Notice to File Missing Parts was sent in error. Accordingly, the petition is granted.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of June 16, 2005, using the 43 sheets of drawings submitted on that date, and the one sheet of informal drawing Figure 18, submitted with the petition on November 4, 2005, as part of the original disclosure for filing date purposes.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/155,558	06/20/2005	Kazuhito Kurita	273572US6CONT	4800

22850 7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHEN, TIANJIE

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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.
11/155,558	06/20/2005	Kazuhito Kurita	273572US6CONT	4800

7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHEN, TIANJIE

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	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:
01/24/2008 0030049640

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1007

FORM PET651G (Rev. 08/07)

Notice of Abandonment	Application No.	Applicant(s)	
	11/155,558	KURITA ET AL.	
	Examiner	Art Unit	
	Chen, Tianjie	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Rick Clemons/ □□Administrative Assistant□□Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United Stat s Pat nt and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HELLER EHRMAN WHITE & MCAULIFFE LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

COPY MAILED
AUG 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Saito et al.	:	DECISION ON PETITION
Application No. 11/155,573	:	TO WITHDRAW
Filed: June 20, 2005	:	FROM RECORD
Attorney Docket No. 37808-0012.US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 9, 2005.

The request is **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 D. Granados on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn. Applicants are 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 inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the first below-listed address until otherwise properly notified by the applicants.

The Revocation of Power of Attorney submitted on May 18, 2006 is hereby not accepted because it lacked a Statement under 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Chase
Petitions Examiner
Office of Petitions

Cc:

YOSHINOBU SAITO
16-13, AI 3-CHOME
IBARAKI-SHI, OSAKA 567-0001
JAPAN

NOVAK DRUCE DELUCA & QUIGG LLP
1300 EYE STREET, NW
SUITE 400 EAST
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/155,602	06/20/2005	Shin-ichi Minegishi	360842009301	7277

7590 10/05/2006

Barry E. Bretschneider
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

EXAMINER
MENON, KRISHNAN S

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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10-5-06

In re Application of	:	
Shin-ichi Minegishi et al.	:	
Serial Number: 11/155,602	:	WITHDRAWAL
Filed: June 20, 2005	:	FROM
	:	ISSUE

For: HOLLOW FIBER MEMBRANE AND METHOD OF PRODUCING THE SAME:

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action. Telephone inquires may be directed to Wanda Walker at 571-272-1151.

Jacqueline M. Stone, Director
Technology Center 1700/2900
Chemical and Materials Engineering

Barry E. Bretschneider
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean VA 22102

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Seiichiro Tachibana	: DECISION ON REQUEST FOR
Patent Number	: 7598015	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,605	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **302** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
KURODA, SHINICHI, et al.
Application Serial No.: 11/155,611
Filed: June 20, 2005
For: **IMAGE ENCODING DEVICE AND IMAGE DECODING DEVICE**

DECISION
ON PETITION

This is a decision on the petition, filed on March 28, 2006 which is being treated as a petition under 37 C.F.R. §1.181 requesting an expedited action on the merits. This petition has been considered a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

This application is a divisional of application Serial Number 09/545,172 filed April 6, 2000.

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy.

Accordingly, the petition is **<u>DISMISSED AS MOOT.</u>**

A non-final Office action was mailed April 4, 2006. The period for response continues to run

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

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FROM DIRECTORS OFFICE

SEP 13 2005

TECHNOLOGY CENTER 3600

In re application of Blake Whisenant Application No. 11/155,621 Filed: June 20, 2005 For: PLANT CULTIVATION APPARATUS AND METHOD FOR GROWING CROPS IN SEQUENCE	:	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 3, 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. Whisenant 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** .

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dew: 08/29/05

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
EBUCHI, KAZUHISA	:	DECISION ON REQUEST TO
Application No. 11/155,624	:	PARTICIPATE IN PATENT
Filed: June 20, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 00862.104221	:	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 July 2, 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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MCKENNA LONG & ALDRIDGE, LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Han-Mo Koo, et. al.	:	
Application No. 11/155,691	:	DECISION ON PETITION
Filed: June 20, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 28927.1030-US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional applications must have been filed within twelve months of the filing date of the prior-filed provisional applications.

37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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 between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed 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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 1642, for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: Marcus P. Dolce
Price, Heneveld, Cooper, DeWitt & Litton, LLP
695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

Mail Date: 04/21/2010

Applicant	: Han-Mo Koo	: DECISION ON REQUEST FOR
Patent Number	: 7612035	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,691	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **818** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/155,693	06/16/2005	3753	500	BAR5262.01A2	17	20	3

CONFIRMATION NO. 4033

CORRECTED FILING RECEIPT

OC000000016909940

8156
JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

Date Mailed: 08/31/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Alan Avis, Placerville, CA;
Brian Rodman, Sacramento, CA;

Power of Attorney:

James Ritchey--32594
John O'Banion--33201
Steven Smith--44343
Rodger Rast--45853

Domestic Priority data as claimed by applicant

This application is a CON of 10/124,766 04/16/2002 PAT 6,920,895
which claims benefit of 60/284,161 04/16/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/155,693

Projected Publication Date: 12/08/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Surge suppression and safety cut-off valve

Preliminary Class

137

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SPANSION LLC C/O MURABITO , HAO & BARNES LLP
TWO NORTH MARKET STREET
THRID FLOOR
SAN JOSE CA 95113

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DEC 16 2008

In re Application of	:	
Fang, et al.	:	
Application No. 11/155,707	:	DECISION GRANTING
Filed: May 16, 2005	:	PETITION
Attorney Docket No. AMD-AF01447	:	

This is a decision on the petition, filed December 2, 2008, requesting that the above-identified application be accorded a filing date of May 16, 2005, rather than the presently accorded date of May 17, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on May 16, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. EV733765164US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of May 16, 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. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on May 16, 2005.

In view of the above, 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 16, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed the undersigned at (571) 272-3205. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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TWO NORTH MARKET STREET
THRID FLOOR
SAN JOSE CA 95113

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MAR 0 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Fang, et al.	:	
Application No. 11/155,707	:	DECISION GRANTING PETITION
Filed: June 16, 2005	:	
Attorney Docket No. AMD-AF01447	:	

This is a decision on the petition, filed February 6, 2009, requesting that the above-identified application be accorded a filing date June 16, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on June 16, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. EV733765164US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of June 16, 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. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on June 16, 2005.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for correction of the filing date to **June 16, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed the undersigned at (571) 272-3205. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

MAILED

MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph K. Jurneke	:	
Application No. 11/155,735	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. 249212024700	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert A. Saltzberg 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 Joseph K. Jurneke at the address indicated below.

There is an outstanding Office action mailed November 25, 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: **JOSEPH K. JURNEKE**
13688 RACE COURT
BRIGHTON, CO 80602

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
11/155,735	06/16/2005	Joseph K. Jurneke	249212024700

CONFIRMATION NO. 3531

POWER OF ATTORNEY NOTICE

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

OC000000036100287

Date Mailed: 05/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/24/2009.

- 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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United States Patent and Trademark Office
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BRETT L. NELSON
EASTMAN CHEMICAL COMPANY
100 NORTH EASTMAN ROAD
KINGSPORT TN 37660-5075

MAILED

APR 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul K. SCHERRER	:	
Application No. 11/155,756	:	DECISION ON PETITION
Filed: June 17, 2005	:	
Attorney Docket No. EACC 0144 PUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 11, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 11, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Patent No. 7,451,850	:	
Hidemichi Tokunou	:	DECISION DISMISSING
Application No. 11/155,777	:	REQUEST FOR
Issue Date: November 18, 2008	:	RECONSIDERATION OF
Filed: June 20, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
023971-0585	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed on January 9, 2009. Patentee requests that the determination of patent term adjustment be corrected from five hundred eighty-nine (589) days to seven hundred forty (740) 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 589 days.

BACKGROUND

This application was filed on June 20, 2005. On July 22, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 589 days[1]. On November 18, 2008, the application matured into U.S. Patent No. 7,451,850, with a revised patent term adjustment of 589 days. The Office determined that the 151 days of Office

[1] 589 days of Office delay was reduced by 0 days of applicant delay for a patent term adjustment of 589 days. No request for reconsideration of this initial determination was filed.

delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3] overlaps with the 589 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the issuance of the patent. As such, 0 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 0 days, the patent issued with a revised patent term adjustment of 589 days.

On January 9, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 740 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

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[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[3] As of the issuance of the patent on November 18, 2008, the application was pending three years and 151 days.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[5] A first Office action (restriction requirement) was not mailed until March 31, 2008, fourteen months and 589 days after the application filing date, June 20, 2005.

the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 740 (589 + 151) days as these periods do not occur on the same day. Further, given the applicant delay of 0 days, patentee asserts entitlement to 740 days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of

---

[6] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

> delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), June 20, 2005, and ending on the date of issuance of the patent, November 18, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 589 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), 151 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 151 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 589 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 151 days and the 589 days is neither permitted nor warranted. 589 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered the greater period of 589 days of Office delay for a total of 589 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 589 days (589 days of Office delay - 0 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartera Donnell for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

11/1558/D

In The United States Patent and Trademark Office

Application: Continuation-in-part of a prior-filed application (application number 09/978.346, filing date - 10/16/2001).

Applicants: Leonid Slutsker, Viacheslav A. Marikhin, and Lioubov P. Miasnikova

Title: Method and Apparatus For Low-Speed, High-Throughput Fiber Drawing Using Coiled Fiber Loops

Examiner/GAU: Leo B. Tentoni/1732 (examined the prior-filed application)

6-18-05

Douglasville, GA, June 8, 2005

Petition to Make Special

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby respectfully petition that the above application be made special under MPEP Sec. 708.02 for the reason that ages of all applicants are greater than 65.

Very respectfully,

Applicants:

Leonid Slutsker | Viacheslav A. Marikhin | Lioubov P. Miasnikova

Attachments: Copies of applicants passports (3 pages)

c/o: Leonid Slutsker
9709 Squirrel Wood Run
Douglasville, GA 30135
Telehpone: (770)489-6955

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

OCT - 3 2005

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OFFICE OF PETITIONS

In re Application of	:	
Enid M. Hunkeler, et al.	:	
Application No. 11/155,821	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 595592000200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 8, 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 March 13, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: PETER C. MEI, ESQ.
BINGHAM MCCUTCHEN, LLP
1900 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303-2223

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Michael P. Murtaugh et al	:	
Application No. 11/155,830	:	DECISION GRANTING PETITION
Filed: June 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09531-191001/Z04185	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1648 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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SEP 04 2008

In re Application of	:	
Murtaugh et al.	:	
Application No. 11/155,830	:	LETTER REGARDING
Filed: June 17, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 09531-191001	:	
/Z04185	:	

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT filed June 4, 2008. Pursuant to applicants' duty of candor and good faith to the Office, applicants disclose an error in the initial determination of patent term adjustment under 35 U.S.C. 154(b).

On March 11, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 317 days.

However, prior to a decision on the letter regarding patent term adjustment being rendered, on August 14, 2008, applicants filed a petition to withdraw from issue along with a request for continued examination (RCE). By decision mailed August 15, 2008, the withdrawal from issue was granted. Prosecution was reopened.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicants must submit a timely application for patent term

adjustment in response to any new Notice of Allowance (or may submit another candor letter). An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice.

Technology Center AU 1648 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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In re Application of	:	
Michael P. Murtaugh et al	:	
Application No. 11/155,830	:	DECISION GRANTING PETITION
Filed: June 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09531-191001/Z04185	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 5, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1648 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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In re Application of	:	
Murtaugh et al.	:	
Application No. 11/155,830	:	LETTER REGARDING
Filed: June 17, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 09531-191001 /	:	
Z04185	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed December 5, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment of three hundred seventeen (317) days may be longer than appropriate.

The request for review of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred seventy **(270)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 26, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 317 days. Applicants point out the receipt date of a response to Notice to File Missing Parts. Specifically, applicants note PAIR is incorrect is showing that the response was filed on October 31, 2005. The response was mailed on October 31, 2005, but not received at the Office until November 3, 2005.

A review of the record confirms that the response to the Notice to File Missing Parts of Application mailed July 29, 2005 was not received until November 3, 2005, three months and 5 days later. 37 CFR 1.704 (b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e),and in particular the ground of adjustment set forth in § 1.702(b), 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. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Moreover, as implicitly acknowledged by applicants, pursuant to 37 CFR 1.703(f),

> The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

Accordingly, pursuant to § 1.704(b), a period of reduction of 5 days, not 2 days, should have been entered. The period of reduction of 2 days is being removed and the period of reduction of 5 days is being entered

Moreover 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:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months;

37 CFR 1.704(d) provides that:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

After the mailing of the notice of allowance on March 11, 2008 and after the payment of the issue fee on June 4, 2008, on August 14, 2008, applicants filed a petition to withdraw the application from issue, a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS). The IDS did not include a §1.704(d) statement. A decision in response to the petition to withdraw from issue was mailed on August 15, 2008. The Notice of Allowance mailed September 26, 2008 responded to both the RCE and the IDS. Accordingly, pursuant to § 1.704(c)(10), a period of reduction of 44 days is being entered (considering overlap for the periods beginning on August 14, 2008 and ending on August 15, 2008 and beginning on August 14, 2008 and ending on September 26, 2008).

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 two hundred seventy (270) days (350 - (31 + 44 + 5)).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

Day : Thursday
Date: 1/15/2009

PALM INTRANET

Time: 21:51:47

PTA Calculations for Application: 11/155830			
Application Filing Date:	06/17/2005	PTO Delay (PTO):	350
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	270
PTO Delay Adjustment:	-47		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	01/15/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	2		
85	01/15/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		5	
84	01/15/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		44	
74	09/26/2008	MAIL NOTICE OF ALLOWANCE			
73	09/22/2008	ISSUE REVISION COMPLETED			
72	09/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	09/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
70	09/05/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
69	09/05/2008	DOCUMENT VERIFICATION			
68	09/05/2008	EMAIL NOTIFICATION			
67	09/04/2008	MAIL-PETITION DECISION - DISMISSED			
66	09/03/2008	PETITION DECISION - DISMISSED			
65	08/27/2008	NOTICE OF ALLOWABILITY			
62	08/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	08/14/2008	MISCELLANEOUS INCOMING LETTER			
60	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	08/22/2008	DATE FORWARDED TO EXAMINER			
58	08/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	08/22/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
56	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		MAIL-RECORD PETITION DECISION OF			

55	08/15/2008	GRANTED TO WITHDRAW FROM ISSUE			
54	08/15/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
53	08/14/2008	PETITION ENTERED			
52	08/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	06/04/2008	PETITION ENTERED			
50	06/05/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	06/04/2008	ISSUE FEE PAYMENT VERIFIED			
48	06/04/2008	ISSUE FEE PAYMENT RECEIVED			
47	05/14/2008	FINISHED INITIAL DATA CAPTURE			
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36	03/05/2008	NOTICE OF ALLOWABILITY			
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29	02/15/2008	RESPONSE AFTER NON-FINAL ACTION		31	27
28	02/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	10/15/2007	MAIL NON-FINAL REJECTION			
26	10/12/2007	NON-FINAL REJECTION			
25	11/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/01/2007	DATE FORWARDED TO EXAMINER			
23	08/31/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
22	08/02/2007	MAIL RESTRICTION REQUIREMENT	350		-1
21	08/01/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
20	01/04/2007	PG-PUB ISSUE NOTIFICATION			
19	01/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
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17	11/20/2006	REFERENCE CAPTURE ON IDS			
16.7	11/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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10	10/31/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	10/31/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	11/10/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	07/29/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	07/21/2005	CLEARED BY L&R (LARS)			
3	06/29/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	06/24/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/17/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Murtaugh et al. :
Application No. 11/155,830 : LETTER REGARDING
Filed: June 17, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 09531-191001 /:
Z04185 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed December 5, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment of three hundred seventeen (317) days may be longer than appropriate.

The request for review of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred seventy **(270)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 26, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 317 days. Applicants point out the receipt date of a response to Notice to File Missing Parts. Specifically, applicants note PAIR is incorrect is showing that the response was filed on October 31, 2005. The response was mailed on October 31, 2005, but not received at the Office until November 3, 2005.

A review of the record confirms that the response to the Notice to File Missing Parts of Application mailed July 29, 2005 was not received until November 3, 2005, three months and 5 days later. 37 CFR 1.704 (b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e),and in particular the ground of adjustment set forth in § 1.702(b), 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. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Moreover, as implicitly acknowledged by applicants, pursuant to 37 CFR 1.703(f),

> The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

Accordingly, pursuant to § 1.704(b), a period of reduction of 5 days, not 2 days, should have been entered. The period of reduction of 2 days is being removed and the period of reduction of 5 days is being entered

Moreover 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:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months;

37 CFR 1.704(d) provides that:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

After the mailing of the notice of allowance on March 11, 2008 and after the payment of the issue fee on June 4, 2008, on August 14, 2008, applicants filed a petition to withdraw the application from issue, a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS). The IDS did not include a §1.704(d) statement. A decision in response to the petition to withdraw from issue was mailed on August 15, 2008. The Notice of Allowance mailed September 26, 2008 responded to both the RCE and the IDS. Accordingly, pursuant to § 1.704(c)(10), a period of reduction of 44 days is being entered (considering overlap for the periods beginning on August 14, 2008 and ending on August 15, 2008 and beginning on August 14, 2008 and ending on September 26, 2008).

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 two hundred seventy (270) days (350 - (31 + 44 + 5)).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

Day : Thursday
Date: 1/15/2009

PALM INTRANET

Time: 21:51:47

PTA Calculations for Application: 11/155830			
Application Filing Date:	06/17/2005	PTO Delay (PTO):	350
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	270
PTO Delay Adjustment:	-47		

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66	09/03/2008	PETITION DECISION - DISMISSED			
65	08/27/2008	NOTICE OF ALLOWABILITY			
62	08/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	08/14/2008	MISCELLANEOUS INCOMING LETTER			
60	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	08/22/2008	DATE FORWARDED TO EXAMINER			
58	08/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	08/22/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
56	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		MAIL-RECORD PETITION DECISION OF			

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Murtaugh et al.	:	
Application No. 11/155830	:	DECISION ON APPLICATION
Filing or 371(c) Date: 06/17/2005	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
09531-191001 / Z04185	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed June 24, 2009.

The application for patent term adjustment is **DISMISSED**.

On June 12, 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 270 days.

On June 24, 2009, applicants timely submitted the present application for patent term adjustment[1]. Applicants request review of the Patent Term Adjustment determination, in particular, the 44 day period of reduction for applicant delay for the time period beginning on the date the Request for Continued Examination ("RCE") and Information Disclosure Statement ("IDS") were filed, August 14, 2008, and ending on the mailing date of the Notice of Allowance in response to the RCE and IDS was mailed, September 26, 2008.

Applicants do not dispute the adjustment of 350 days under 1.702(a)(1). Applicants do not dispute the reduction of five days under 37 CFR 1.704(b) in connection with the response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") filed November 3, 2005. Applicants do not dispute the reduction of 31 days under 37 CFR 1.704(b) in connection with the response to the non-final Office action filed February 15, 2008

Regarding the reduction of 44 days attributed to Applicants, Applicants argue that the filing of the RCE and an IDS in compliance with the duty of disclosure should not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

[1] Office records show that the Issue Fee payment was received in the Office on June 24, 2009.

Notice of Allowance was mailed March 11, 2008. A proper reply in response thereto, in the form of the issue fee payment, was submitted June 4, 2008. Applicants thereafter on August 14, 2008 filed a petition to withdraw from issue, a request for continued examination (RCE) and submission (an IDS that failed to comply with 37 CFR 1.704(d)). Accordingly, a reduction in accordance with 37 CFR 1.704(c)(10) was properly entered.

As noted in the Letter Regarding Patent Term Adjustment (Letter) mailed February 11, 2009, 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: (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months."

Thus, the reduction under 37 CFR 1.704(c)(10) commenced August 14, 2008, the date that the RCE and Submission were filed, and ended September 26, 2008, the date that the Office mailed a Notice of Allowance in response thereto.

Further review of the record reveals that a second Notice of Allowance was mailed September 26, 2009. On December 5, 2008, applicants submitted a proper reply to the Notice of Allowance in the form of submission of the issue fee payment. On February 5, 2009, applicants filed a petition to withdraw from issue, an RCE and submission (IDS which did not comply with 37 CFR 1.704(d)). Accordingly, a reduction under 37 CFR 1.704(c)(10) of 37 days is properly entered. The reduction commenced February 5, 2009, the date that the RCE and submission were filed, and ended March 13, 2009, the date of mailing of the third Notice of Allowance.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is 233 days (350 days adjustment less 117 days of applicant delay (5 + 31 +44 +37)), subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

PALM INTRANET

Day : Monday
Date: 9/21/2009
Time: 08:09:35

PTA Calculations for Application: 11/155830			
Application Filing Date:	06/17/2005	PTO Delay (PTO):	350
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	233
PTO Delay Adjustment:	-84		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
141	09/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		37	
131	06/12/2009	MAIL NOTICE OF ALLOWANCE			
130	06/08/2009	ISSUE REVISION COMPLETED			
129	06/08/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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127	05/29/2009	NOTICE OF ALLOWABILITY			
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120	05/20/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
119	05/20/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
118	04/01/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
117	03/16/2009	EXPORT TO INITIAL DATA CAPTURE			
116	03/16/2009	ELECTRONIC REVIEW			
115	03/13/2009	EMAIL NOTIFICATION			
114	03/13/2009	MAIL NOTICE OF ALLOWANCE			
114	03/13/2009	MAIL NOTICE OF ALLOWANCE			
113	03/11/2009	ISSUE REVISION COMPLETED			
113	03/11/2009	ISSUE REVISION COMPLETED			
112	03/11/2009	DOCUMENT VERIFICATION			
112	03/11/2009	DOCUMENT VERIFICATION			

111	03/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
110	03/11/2009	NOTICE OF ALLOWABILITY			
109	03/10/2009	DATE FORWARDED TO EXAMINER			
108	03/09/2009	SUPPLEMENTAL RESPONSE			
106	02/11/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
105	02/10/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
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96	02/06/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
95	02/06/2009	WITHDRAWAL PATENT CASE FROM ISSUE			
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87	02/10/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
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80	12/05/2008	ISSUE FEE PAYMENT RECEIVED			
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10	10/31/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115,			

		OATH OF THE APPLIC			
9	10/31/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	11/10/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	07/29/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	07/21/2005	CLEARED BY L&R (LARS)			
3	06/29/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	06/24/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/17/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MAILED

MAY 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Murtaugh et al.	:	DECISION ON
Patent Number: 7,611,717	:	APPLICATION FOR
Issue Date: 11/03/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/155830	:	and
Filing or 371(c) Date: 06/17/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 09531-191001 / Z04185	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 4, 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 two hundred ninety-one (291) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred ninety-one (291) 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 June 18, 2008 and ends on August 13, 2008, the day before the RCE was filed, and is 57 (not 58) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 290, not 291 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 **two hundred ninety (290)** 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 : 7,611,717 B2

DATED : **November 3, 2009**

INVENTOR(S) : Murtaugh 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 123 days.

Delete the phrase "by 123 days" and insert – by 290 days--

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APR 0 8 2009

OFFICE OF PETITIONS

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

In re Application of Se Aug Jang, et al. Application No. 11/155,833 Filed: June 17, 2005 Attorney Docket No. CU-4249 WWP	: : : : :	ON PETITION

This is a decision in response to the petition, filed February 11, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 16, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 17, 2007. A Notice of Abandonment was mailed on November 27, 2007. In response, on February 11, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2823 for appropriate action by the Examiner in the normal course of business on the reply received February 11, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LOWRIE, LANDO & ANASTASI, LLP
W2023
ONE MAIN STREET
SUITE 1100
CAMBRIDGE MA 02142

MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,501,121	:	
Tchistiakova et al.	:	DECISION ON
Issue Date: March 10, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 11/155,843	:	OF
Filed: June 17, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. W2023-700430/	:	
AM101762	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTEMENT UNDER 37 C.F.R. §1.705(d)," filed May 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred seventy-one (271) days to five hundred thirty-seven(537) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 10, 2009, the above-identified application matured into U.S. Patent No. 7,501,121 with a patent term adjustment of 271 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees argue that the determination of 271 days is in error in that pursuant to 35 U.S.C. §154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR § 1.702(b) and failed to take a certain action within a time frame specified in 37 CFR § 1.702(a). Patentees request recalculation of the patent term adjustment to include a 266 day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 266

days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 383 days.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 266 days. This 266 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on June 17, 2005, and the patent having not issued until March 10, 2009, three years and 266 days later. Patentees assert that in addition to this 266 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) of 383 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). A restriction requirement was mailed on September 4, 2007, 14 months and 383 days after the application was filed on June 17, 2005.

Under 37 CFR § 1.703(f), applicants are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 112 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (266 days) and the period of Examination Delay (383 days) to the extent that these periods of delay are not overlapping.

Patentees contend that no portion of the period of 14 month examination delay of 383 days (August 18, 2006 to September 4, 2007) overlaps with the Three Year Delay period (June 18, 2008 to March 10, 2009). Accordingly, patentees submit that the total period of Office Delay is 649 days, which is the sum of the period of Three Year Delay (266 days) and the period of Examination Delay (383 days), reduced by the period of overlap (0 days).

As such, patentees assert entitlement to a patent term adjustment of 537 days (266+383 reduced by 0 overlap - 112 for applicant delay).

The Office agrees that the patent issued 3 years and 266 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 383 days is correct. At issue is whether patentees should accrue 266 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 383 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 266 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period

> beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on June 18, 2008, the date that is 3 years after the actual filing date of the application is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, June 17, 2005 through March 10, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 383 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of these 383 days

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

overlap with the 266 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 383 days, not 383 + 266 days. The Office took 14 months and 383 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 383 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 266 days after its filing date. The Office did not delay 383 days then an additional 266 days. Accordingly, 383 days of patent term adjustment (not 383 and 266 days) was properly entered since the period of delay of 266 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 383 days attributable to ground specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent remains 271 days.

The Office acknowledges receipt 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 Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/155,862	06/17/2005	3748	600	1359-2	24	3

CONFIRMATION NO. 3539

CORRECTED FILING RECEIPT

OC000000022813757

28249
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE, NY 11553

Date Mailed: 03/08/2007

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)

Lin-Shu Wang, Stony Brook, NY;
Shiyou Yang, Stony Brook, NY;

Power of Attorney: The patent practitioners associated with Customer Number **28249**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/590,100 07/22/2004
and claims benefit of 60/580,493 06/17/2004

Foreign Applications

If Required, Foreign Filing License Granted: 08/25/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/155,862

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Supercharged intercooled engine using turbo-cool principle and method for operating the same

Preliminary Class

060

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 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Phillip Owen Byrne	: DECISION ON REQUEST FOR
Patent Number	: 7588556	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/155,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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ATTN: JOHN W. WALLEN, III
AMBRX, INC.
10975 NORTH TORREY PINES ROAD
SUITE 100
LA JOLLA, CA 92037

Mail Date: 06/16/2010

Applicant	: Ho Sung Cho	: DECISION ON REQUEST FOR
Patent Number	: 7632924	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/155,909	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **644** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PHILADELPHIA, PA 19103-2307

Mail Date: 05/07/2010

Applicant	: Joseph Ray Metz	: DECISION ON REQUEST FOR
Patent Number	: 7654371	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/155,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-06

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Shaw et al.	:	
Application No. 11/155,927	:	DECISION ON PETITION
Deposited: 20 June, 2005	:	
Atty Docket No. 83-817	:	

This is a decision on the petition filed on 17 November, 2005, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on 21 July, 2005, a Notice of Incomplete Nonprovisional Application was mailed, stating that the application had not been accorded a filing date because the application had been deposited without drawings, and that applicant should reconsider whether drawings are necessary under 35 U.S.C. 113 (first sentence). A Notice of Termination of Proceedings Under 37 CFR 1.53(e) was mailed on 28 October, 2005.

On 17 November, 2005, the present petition was filed. The reply accompanying the petition states that drawings are provided herewith, although no drawing is be located among the papers received on 17 November, 2005.

A review of the record reveals that the application has not been accorded a filing date. Since no filing date was accorded, the application did not become abandoned. As such, the petition is dismissed as moot.

However, as stated above, the application remains **incomplete** because no drawing has been filed. Petitioner must supply a drawing in order for the application to receive a filing date. The filing date will be the date that a drawing in compliance with 35 USC 113 is received.

No petition fee has been charged, and none is due.

Petitioner should submit the drawing as required by the Notice of Incomplete Application in order to receive a filing date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Finnegan, Henderson, Farabow, Garrett, Dunner
901 New York Avenue, NW
Washington, DC 20001-4413

COPY MAILED
MAR 18 2010

In re Patent No. 7,507,735	:
Morgan et al.	: DECISION UPON REMAND AND
Issue Date: March 24, 2009	: RECONSIDERATION OF
Application No. 11/155,940	: PATENT TERM ADJUSTMENT
Filed: June 16, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 10444.0114-00000	: TO ISSUE CERTIFICATE OF CORRECTION
Title: COMPOUNDS, COMPOSITIONS AND METHODS	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred and five (605) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and five (605) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,507,735 B2

DATED : **March 24, 2009** **DRAFT**

INVENTOR(S) : Morgan 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 412 days

Delete the phrase "by 412 days" and insert – by 605 days--

Day : Wednesday

PALM INTRANET

Date: 3/17/2010
Time: 14:43:43

PTA Calculations for Application: 11/155940			
Application Filing Date:	06/16/2005	PTO Delay (PTO):	412
Issue Date of Patent:	03/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	605
PTO Delay Adjustment:	193		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	03/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	193		
65.5	03/04/2009	PTA 36 MONTHS			
65	03/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	88		54
64	02/24/2009	EXPORT TO FINAL DATA CAPTURE			
63	02/23/2009	FINISHED INITIAL DATA CAPTURE			
62	02/23/2009	DISPATCH TO FDC			
61	02/23/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
60	02/23/2009	TC RETURN TO PUBS			
59	02/06/2009	WORKFLOW - QUERY REQUEST - FINISH			
58	08/21/2008	PUBS CASE REMAND TO TC			
57	09/03/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
56	09/02/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
55	08/27/2008	WORKFLOW - QUERY REQUEST - BEGIN			
54	08/26/2008	ISSUE FEE PAYMENT VERIFIED			
53	08/26/2008	ISSUE FEE PAYMENT RECEIVED			
52	08/15/2008	EXPORT TO INITIAL DATA CAPTURE			
50	08/11/2008	MAIL NOTICE OF ALLOWANCE			
49	08/07/2008	ISSUE REVISION COMPLETED			
48	08/07/2008	DOCUMENT VERIFICATION			
47	08/07/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	08/07/2008	CASE DOCKETED TO EXAMINER IN GAU			
45	08/06/2008	EXAMINER'S AMENDMENT COMMUNICATION			

44	08/06/2008	NOTICE OF ALLOWABILITY			
43	06/13/2008	DATE FORWARDED TO EXAMINER			
42	06/05/2008	AMENDMENT AFTER FINAL REJECTION			
41	05/20/2008	MAIL FINAL REJECTION (PTOL - 326)	17		37
40	05/12/2008	FINAL REJECTION			
39	01/03/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	01/23/2008	DATE FORWARDED TO EXAMINER			
37	01/03/2008	RESPONSE AFTER NON-FINAL ACTION			
36	01/03/2008	REFERENCE CAPTURE ON IDS			
35	01/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	01/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	10/12/2007	MAIL NON-FINAL REJECTION			
32	09/28/2007	NON-FINAL REJECTION			
31	10/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	09/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	12/01/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	07/20/2007	DATE FORWARDED TO EXAMINER			
27	07/18/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
26	06/19/2007	MAIL RESTRICTION REQUIREMENT	307		-1
25	06/11/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
24	03/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	12/01/2006	REFERENCE CAPTURE ON IDS			
21.7	12/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	12/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/18/2006	REFERENCE CAPTURE ON IDS			
19.7	09/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	09/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	11/09/2005	CASE DOCKETED TO EXAMINER IN GAU			

16	10/03/2005	REFERENCE CAPTURE ON IDS			
15.7	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/03/2005	PRELIMINARY AMENDMENT			
13	10/11/2005	APPLICATION DISPATCHED FROM OIPE			
12	10/11/2005	APPLICATION IS NOW COMPLETE			
11	10/03/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
10	10/03/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	08/11/2005	CLEARED BY L&R (LARS)			
8	08/02/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/29/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	06/24/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/16/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Paper No: __

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OFFICE OF PETITIONS

DARREN A. BACH
7993 PROGRESS WAY
DELTA BC V4G 1A3
CANADA

In re Application of	:	
Bach	:	DECISION
Application No. 11/155,942	:	
Filing Date: 13 June, 2005	:	
Attorney Docket No.: (None)	:	

This is a decision on the petition filed on 16 November, 2006, seeking to revive the instant application under 37 C.F.R. §1.137(a) as abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37

[1] 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. 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.

C.F.R. §1.137(b)[2] (as to unintentional delay) 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(a)"; and/or "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 the Notice to File Missing Parts (fees due) mailed on 8 September, 2005, with reply due absent extension of time on or before 8 November, 2005;
- the instant application went abandoned by operation of law after midnight 8 November, 2005;
- the Office mailed the Notice of Abandonment on 28 September, 2006;
- on 16 November, 2006, Petitioner filed, *inter alia*, the instant petition with fee, a reply in the form of fees due, and a statement averring non-receipt of the Notice of Missing Parts, but Petitioner failed to submit documentation in support of his averment (see: MPEP §711.03(c) and otherwise to satisfy the showing requirement under the regulation.

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

---

[2] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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).[4]

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[3] 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]

[4] 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 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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has failed to satisfy the "showing" requirement of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **dismissed**.

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[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] 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.

[9] 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.

ALTERNATIVE VENUE

It appears that Petitioner will be unable to make a showing of unavoidable delay. Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein 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").

Petitioner may wish to refer to the guidance (as to revival of abandoned applications) found at the Office website at http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html#lapse and/or review the guidance at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
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[12]) and

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[10] On July 15, 2005, the Central Facsimile (FAX) Number was changed to (571) 273-8300, which is the only facsimile number recognized for entralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[12] 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

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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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

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MAR 17 2008

DARREN A. BACH
7993 PROGRESS WAY
DELTA BC V4G 1A3
CANADA

In re Application of	:	
Bach	:	DECISION
Application No. 11/155,942	:	
Filing Date: 13 June, 2005	:	
Attorney Docket No.: (None)	:	

This is a decision on the petition filed on 10 September, 2007, seeking to revive the instant application under 37 C.F.R. §1.137(b) as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts (fees due) mailed on 8 September, 2005, with reply due absent extension of time on or before 8 November, 2005;

- the instant application went abandoned by operation of law after midnight 8 November, 2005;

- the Office mailed the Notice of Abandonment on 28 September, 2006;

- on 16 November, 2006, Petitioner filed, *inter alia*, the original petition with fee under 37 C.F.R. §1.137(a) and averring unavoidable delay, with a reply in the form of fees due, and a statement averring non-receipt of the Notice of Missing Parts, but without documentation in support of the averment (see: MPEP §711.03(c) and failing otherwise to satisfy the showing requirement under the regulation, and so the petition was dismissed on 27 August, 2007;

- the instant petition, filed under 37 C.f.R. §1.137(b) and averring unintentional delay on 10 September, 2007, seeks to resolve the deficiencies with the previously filed reply in the form of fees due and the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

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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] 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.

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]))

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Office of Initial Patent Examination (OIPE) 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 OIPE in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to OIPE where that change of status must be effected.

---

[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.

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[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).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[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.

UNITED STATES 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
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

COPY MAILED

FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Enid M. Hunkeler et al.	:	
Application No. 11/155,967	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 595592000100	:	FROM RECORD
	:	

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 9, 2008, January 14, 2008 and January 23, 2008.

The request is **APPROVED**.

A review of the file record indicates attorneys/agents with the firm of Morrison & Foerster, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all attorneys/agents have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy will be mailed to the address noted on the request.

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Enid M. Hunkeler
6651 Chabot Road
Oakland, CA 94618

cc: Peter C. Mei
Bingham, McCutchen, LLP
1900 University Avenue
East Palo Alto, CA 94303-2223

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
11/155,967	06/17/2005	Enid M. Hunkeler	595592000100

CONFIRMATION NO. 5910

POWER OF ATTORNEY NOTICE

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

OC000000028349528

Date Mailed: 02/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

COPY MAILED
MAY 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Gleason et al.	:	
Application No. 11/155,986	:	
Filed: April 22, 2005	:	ON PETITION
Attorney Docket Number:	:	
1016.2063	:	

This is a decision on the petition under 37 CFR 1.137(a), filed April 25, 2006, to revive the above-identified application.

This Petition 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 "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, ("Notice"), mailed November 30, 2005. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on March 1, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition wherein Applicant avers that he did not receive the Notice.

Applicant is advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or 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 Applicant's statement.

Accordingly, Applicant's assertion, that the Notice was not received, is insufficient to justify withdrawing the holding of abandonment. Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed.

Applicant should file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Gleason et al.	:	
Application No. 11/155,986	:	
Filed: April 22, 2005	:	ON PETITION
Attorney Docket Number:	:	
1016.2063	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, ("Notice"), mailed November 30, 2005. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on March 1, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Applicant has submitted the issue fee on April 26, 2006.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego CA 92122

COPY MAILED
SEP 2 4 2008

In re Application of	:	
Paul Polakis	:	
Application No.: 11/155987	:	DECISION ON
Filing or 371(c) Date: 06/17/2005	:	PETITION
Attorney Docket Number:	:	
39766-0150A	:	

This is a decision in response to the "Request to Withdraw Holding of Abandonment," filed August 4, 2008. The Request is properly treated as a Petition Under 37 CFR § 1.181.

This Petition is hereby dismissed.

Any petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is not final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Dislosures ("Notice"), mailed September 25, 2007. The Notice set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on October 26, 2007. A Notice of Abandonment was mailed June 3, 2008.

The present petition

Applicant files the present petition and asserts that the Examiner agreed that a Sequence Listing was not required, and that the Office of Patent Application Processing informed Applicant that since the Sequence Listing was not necessary, the Notice would be withdrawn.

Applicable Law Rules and MPEP

The applicable statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

This section of the statute is further clarified in Office rule 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that a failure to reply will result in the abandonment of the application.

Applicant is reminded that all business with this Office must be conducted in writing. The applicable rule, 37 CFR 1.2 states:

> 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.

Analysis

Applicant asserts that the Examiner agreed that a Sequence Listing was not required, and that the Office of Patent Application Processing informed Applicant that since the Sequence Listing was not necessary, the Notice would be withdrawn. However, as stated above, all business should be conducted in writing, and the action of the Patent and Trademark Office will be based exclusively on the written record in the Office. Moreover, Applicant did not file a response to the Notice. The MPEP 711.03(c), explaining unavoidable delay, proves instructive. It states:

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). (Emphasis supplied).

While this section refers to a final Office action, the principal is equally applicable to the Notice. The applicable statute and rule do not differentiate between Office actions. The law states

> Upon failure of the applicant to prosecute the application within six months after **any** action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto.... (Emphasis supplied).

The rule similarly states:

> If an applicant of a patent application fails to reply within the time period provided under § 1.134[1] and § 1.136, the application will become abandoned

[1] 37 CFR 1.134 states: "An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed." It does not differentiate as to the Office action.

unless an Office action indicates otherwise

Here, Applicant failed to file a reply to the Notice. As such, there is no disagreement as to the sufficiency of the reply, because no reply was filed. Since no timely or proper reply to the Notice was filed, the application is abandoned. As stated in the MPEP: "[w]here there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 is necessary to revive the abandoned application.

Alternate Venue

Applicant is urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable."

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025

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JAN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul Polakis	:	
Application No.: 11/155987	:	DECISION ON
Filing or 371(c) Date: 06/17/2005	:	PETITION
Attorney Docket Number: GNE-0150A	:	

This is a decision in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed December 9, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice"), mailed September 25, 2007. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on November 26, 2007. A Notice of Abandonment was mailed June 3, 2008.

With the present petition, Applicant has filed a response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Application Processing for processing of the reply, and for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DEPARTMENT
ROVI CORPORATION
2830 DE LA CRUZ BOULEVARD
SANTA CLARA, CA 95050

Mail Date: 07/14/2010

Applicant	: Philippe Marcel Selve	: DECISION ON REQUEST FOR
Patent Number	: 7701825	: RECALCULATION of PATENT
Issue Date	: 04/20/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/155,988	: OF WYETH
Filed	: 06/17/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED
MAR 30 2007
OFFICE OF PETITIONS

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS

CANCELLED

In re Application of
STEMMER, Willem et al.
Application No. 11/155,989
Filed: June 17, 2005
Attorney Docket No. **022013-001410US**

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 21, 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 Matthew E. Hinsch on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **WILLEM STEMMER**
108 KATHY COURT
LOS GATOS, CA 95030

cc: **CHARLES K. SHOLTZ, PH.D.**
AMGEN, INC.
1120 VETERAMS BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

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
11/155,989	06/17/2005	Willem P.C. Stemmer	022013-001410US

CONFIRMATION NO. 5840

OC000000023048987

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 03/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/21/2006.

- 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.

Michelle R. Eason
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUL 24 2009

OFFICE OF PETITIONS

Fleit Gibbons Gutman Bongini & Bianco PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

In re Application of	:	
Harari, et al.	:	
Application No. 11/156,011	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. 7044-X07-156	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 1, 2009, 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/IL2003/000510, filed June 18, 2003, as set forth in the accompanying amendment. The petition will also be 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 of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT UNDER 37 CFR 1.78(a)(3)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner 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 and 365(c) is accepted as being unintentionally delayed.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the international application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed applications was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C.§ 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, international application, and provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 3600, Art Unit 3634 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application and under 35 § 119(e) to the prior-filed provisional application.

Anthony Knight
Supervisor
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
11/156,011	06/20/2005	3634	875	7044-X07-156	23	2

CONFIRMATION NO. 4120

CORRECTED FILING RECEIPT

OC000000037008925

27317
Fleit Gibbons Gutman Bongini & Bianco PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

Date Mailed: 07/21/2009

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)

Mordechai Harari, Rishon Lezion, ISRAEL;
Amos Halfon, Sitira, ISRAEL;

Power of Attorney: The patent practitioners associated with Customer Number 27317

Domestic Priority data as claimed by applicant

This application is a CON of PCT/IL2003/000510 06/18/2003
which claims benefit of 60/434,808 12/20/2002

Foreign Applications

ISRAEL 156925 06/15/2003

If Required, Foreign Filing License Granted: 07/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/156,011**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

PROFILE OF SLIDING DOOR ROLLER ASSEMBLING

Preliminary Class

049

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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JOHN JOHNSON, III
14728 POMEROL LANE
PINEVILLE, NC 28134

COPY MAILED
JUL 21 2008

In re Application of	:	
Gregory Scott HARPOLE	:	
Application No. 11/156,017	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 049742.285176	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed May 30, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that John E. Johnson III does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET,
SUITE 4000
CHARLOTTE, NC 28280-4000

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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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AUG 1 8 2008

In re Application of	:	
HARPOLE	:	CORRECTED
Application No. 11/156,017	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 052640/285176	:	FROM RECORD

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 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John E. Johnson, III on behalf of all attorneys of record associated with Customer Number 00826.

All attorneys of record associated with Customer Number 00826 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GREGORY SCOTT HARPOLE
2425 WEST ALBERSON DRIVE
ALBANY, GA 31721

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Commissioner for Patents
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THE PROCTER & GAMBLE COMPANY
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6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph John CURRO et al.	:	
Application No. 11/156,020	:	DECISION ON PETITION
Filed: June 17, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9681M	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 24, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed June 15, 2007 states that Serial Number 10/737,306 is a continuation-in-part of Serial Number 10/610,299; however, Office records indicate that no such claim was made in 10/737,306.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application 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) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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APR 23 2008

OFFICE OF PETITIONS

In re Application of	:
John Joseph CURRO et al.	:
Application No. 11/156,020	: DECISION ON PETITION
Filed: June 17, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9681M	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 27, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 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 David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1794 for appropriate action on the amendment filed February 27, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/156,020	06/17/2005	1794	2630	9681M	34	7

CONFIRMATION NO. 5402

CORRECTED FILING RECEIPT

OC000000029544276

27752
THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI, OH 45224

Date Mailed: 04/23/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John Joseph Curro, Cincinnati, OH;
Douglas Herrin Benson, West Harrison, IN;
Daniel Charles Peck, Cincinnati, OH;

Power of Attorney: The patent practitioners associated with Customer Number 27752

Domestic Priority data as claimed by applicant

This application is a CIP of 10/737,306 12/16/2003
which is a CIP of 10/435,996 05/12/2003 ABN
which is a CIP of 10/324,661 12/20/2002 ABN
This application 11/156,020
is a CIP of 10/737,430 12/16/2003
which is a CIP of 10/610,299 06/30/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/156,020**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Tufted fibrous web

Preliminary Class

428

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.

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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 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/156,027	06/17/2005	3754	500	RMM-698	17	20	3

CONFIRMATION NO. 5387

CORRECTED FILING RECEIPT

OC000000016654966

37282
HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER, NY 14445-2408

Date Mailed: 08/01/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

R. Michael Masten, Dansville, NY;
William Grant Masten, Dansville, NY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/580,854 06/18/2004

Foreign Applications

If Required, Foreign Filing License Granted: 07/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/156,027

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Dispenser apparatus and packaging to inhibit propagation of hand-borne pathogens

Preliminary Class

222

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Ray Wellman, et al.	:	
Application No. 11/156,036	:	DECISION GRANTING PETITION
Filed: June 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 021331-000810US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 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 25, 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 3679 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of
REILEY, Mark A.
Application No. 11/156,046
Filed: June 17, 2005
Attorney Docket No. 29914-701.303

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 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 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHAY LAW GROUP LLP**
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO, CA 94403

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

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 06/18/2010

Applicant	: George Macrae Taylor	: DECISION ON REQUEST FOR
Patent Number	: 7636305	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/156,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **918** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JEAN KYLE
P. O. BOX 2274
HAMILTON MT 59840-4274

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OFFICE OF PETITIONS

In re Application of	:	
Naslund, Harvey	:	
Application No. 11/156,099	:	ON PETITION
Filed: June 17, 2005	:	
Attorney Docket No. NAU-100	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3617 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/9/09

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No11/156,114.: No.: 7,481,646--

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)

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch

571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — **Art Unit** 1791

26 JUL 2005

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ALEXANDRIA, VA 22313-1450
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Arlene J. Powers
Gauthier & Connors LLP
225 Franklin Street, Suite 3300
Boston, MA 02110

In re Application of	:	
MACKEL et al.	:	
U.S. Application No.: 11/156,157	:	DECISION ON PETITION
Filing Date: 17 June 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 7953	:	
For: METHOD FOR OPERATING A DEVELOPING	:	
MACHINE AND DEVELOPING MACHINE	:	

This decision is in response to applicants' "Petition for Revival of a Patent Abandoned Unintentionally under 37 CFR 1.37(b)" filed 17 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 December 2003, applicants filed international application PCT/EP03/13738 which claimed priority of an earlier application filed 16 December 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 May 2005.

On 17 June 2005, applicants filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by a continuation application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (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" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicants have supplied the proper reply in the form of the filing of a continuation application.

As to item (2), applicants have submitted the requisite petition fee and thus satisfying item (2).

Regarding item (3), applicants' statement that "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" satisfies this element.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicants' petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/EP03/13738 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

The application will the be forwarded to Office of Initial Patent Examination for continued processing as an application under 35 U.S.C. 111(a).

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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In re Application of :
Brian J. Gally et al :
Application No. 11/156,162 : ON PETITION
Filed: June 17, 2005 :
Attorney Docket No. IRDM.190A (IDC-040029U3)

This is a decision on the petition, filed November 18, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 11, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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GAUTHIER & CONNORS LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Richard James Taylor	:	
Application No. 11/156,180	:	DECISION ON PETITION
Filed: 17 June, 2005	:	
Attorney Docket No. 7981	:	

This is a decision on the petition filed on 6 September, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 30 March, 2006, for failure to timely response to the non-final Office action mailed on 29 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 August, 2006.

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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 utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the amendment filed with the present petition is acknowledged.

This application is being referred to Technology Center 3723 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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JAN 20 2010

OFFICE OF PETITIONS

In re Application of :
Uri El Zur et al :
Application No. 11/156,182 : DECISION DISMISSING PETITIONS
Filed: June 17, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 16364US03 :

This is a decision on the petition filed June 23, 2009, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

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CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Application of
Uri El Zur et al
Application No. 11/156,182
Filed: June 17, 2005
Attorney Docket No. 16364US03

DECISION DISMISSING PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 16, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The decision mailed January 20, 2010 dismissed the petition of June 23, 2009 due to the fact the amendment filed with the petition was not acceptable since the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i). The amendment submitted with the renewed petition is still unacceptable because 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must

contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications.

Moreover, it is not sufficient to just identify all of the prior applications in the chain. To be proper, the appropriate references must have actually been made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. What petitioner has provided is a string of application numbers and titles without specifying the relationship between the applications. In order to have a grantable petition, the amendment to the specification must set forth the relationship between the applications.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Anthony Knight
Director
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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUL 16 2009

OFFICE OF PETITIONS

In re Application of :
Zur, et al. :
Application No. 11/156,206 : DECISION ON PETITIONS
Filed: June 17, 2005 : UNDER 37 CFR 1.78(a)(3) and (6)
Attorney Docket No. 16363US03 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 26, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney 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.

The application is being forwarded to Technology Center AU 2184 for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed provisional application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/156,206	06/17/2005	2184	1000	16363US03	20	2

CONFIRMATION NO. 5398

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000036639737

Date Mailed: 06/25/2009

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)

Uri El Zur, Irvine, CA;
Kan Frankie Fan, Diamond Bar, CA;
Scott McDaniel, Villa Park, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/580,977 06/17/2004
and claims benefit of 60/660,750 03/11/2005
and is a CIP of 10/652,267 08/29/2003 PAT 7,346,701
which claims benefit of 60/408,617 09/06/2002
and claims benefit of 60/407,165 08/30/2002
and claims benefit of 60/456,260 03/20/2003
and claims benefit of 60/456,265 03/20/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/156,206**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for supporting read operations with CRC for iSCSI and iSCSI chimney

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 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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LEFFERT JAY & POLGLAZE PA
ATTN: ANDREW C. WALSETH
P O BOX 581009
MINNEAPOLIS, MN 55402

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Chang Wan Ha	:	
Application No. 11/156,223	:	DECISION GRANTING PETITION
Filed: June 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 400.373US01	:	

This is a decision on the petition, filed December 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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) 272-3218.

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Jan10\156223.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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JACQUEZ & ASSOCIATES
6265 GREENWICH DR
SUITE 100D
SAN DIEGO CA 92122

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION NOTING
Greg E. Ford, John-Cyril P. Hanisko	:	JOINDER OF INVENTORS
Application No. 11/156,224	:	AND PETITION UNDER
Filing Date: June 17, 2005	:	37 CFR 1.47(A) MOOT
Attorney Docket No. ETN-038-PAP	:	

This is in response to the "REQUEST TO FILE EXECUTED DECLARATION OF JOINT INVENTOR - PETITION UNDER 37 CFR 1.47(a) PREVIOUSLY FILED", filed February 2, 2006.

In view of the **joinder** of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the 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 application is being forwarded to Group Art Unit 2858.

Telephone inquiries concerning 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

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February 22, 2007

Jaquez & Associates
Suite 100D
6265 Greenwich Drive
San Diego, CA 92122

MAR 30 2007

In re Application of: Ford et al.
Application No.: 11/156,224
Filed: June 17, 2005
For: APPARATUS FOR CORRECTING ELECTRICAL SIGNALS

DECISION ACCEPTING PAPERS

This is a decision on the petition under 37 CFR § 1.181, filed February 15, 2007, requesting acceptance of the papers attached thereto as having been timely filed.

The petition is GRANTED.

A final office action was mailed on July 7, 2006, setting a three-month shortened statutory period for reply. An advisory action was mailed September 18, 2006. Petitioner contacted the examiner on February 14, 2005 to inquire as to the status of the application. In response to the examiner's assertion that the application was abandoned for failure to properly reply to the final office action, petitioner filed the petition dated February 15, 2007.

Petitioner asserts that a reply was in fact timely filed on October 6, 2006, via the United States Postal Service. To support this assertion, petitioner has submitted a copy of the original submission (Request for RCE), and a document entitled Statement Attesting to Personal Knowledge of Previously Timely Mailing of RCE Application in Accordance with 37 C.F.R. 1.8 and MPEP 512(IV). The Request for RCE received by the Office on February 15, 2007 includes a certificate of mailing under 37 CFR 1.8(a) bearing a date of mailing of October 6, 2006.

The reply filed October 6, 2006 could not be located. However, under the provisions of 37 CFR 1.8(b), it is hereby accepted that a reply was timely filed on October 6, 2006, and the copy of the reply filed with the petition is accepted.

The reply filed with the petition on February 15, 2007 will be entered in the file record and an Office action will be issued in due course.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-2168.

Any inquiry regarding the examination of the instant application should be directed to either the examiner of record or the undersigned.

Andrew Hirshfeld
Supervisory Patent Examiner
Art Unit 2858

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,432,801	: DECISION ON REQUEST
Issued: October 7, 2008	: FOR RECONSIDERATION
Application No. 11/156,227	: OF PATENT TERM ADJUSTMENT
Filed: June 17, 2005	: AND
Attorney Docket No. 026032-4939	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed on December 5, 2008, requesting that the patent term adjustment be corrected from 156 to 229 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred sixty-seven days is **GRANTED to the extent indicated herein.**

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 245 days and the "B" delay period, the over three year period begins on June 18, 2008 and ends on October 7, 2008 and is 112 days. However, Applicants argue that the total applicant delay is 128 days and not 89 days as determined by the Office.

Applicants argue that the response to the non-Final Office Action mailed October 1, 2007 was filed on March 31, 2008, not March 30, 2008 as indicated by the Office. Thus, the response was filed 90 days after the mailing after the period set for reply, not 89 days. Applicants are correct that the Patent Term Adjustment should be reduced by an additional 1 day for applicant delay, in accordance with 37 CFR 1.704(c)(8) for the filing of the response to the non-Final Office Action on March 31, 2008.

With respect to the additional period of 38 days shown in patentee's calculations for the period from August 30, 2008 to October 7, 2008, that should be attributed for Applicant delay, Applicants do not expressly state a basis for their disclosure that additional periods should be attributed for Applicant delay. The USPTO does not find any specific filing in the prosecution history that would trigger a thirty-eight day reduction in patent

term adjustment. Accordingly, the USPTO does not find an additional thirty-eight days of reduction of PTA is warranted.

As such, the patent term adjustment is 267 days (245 "A delay" days plus 112 "B delay" days minus 90 days for applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Per the authorization accompanying the petition and pursuant to 37 CFR 1.18(e), the Office has charged $200.00 for the instant petition to the credit card provided. 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 **two hundred sixty-seven (267)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,432,801 B2

DATED : October 7, 2008

INVENTOR(S) : Cyrille Verrier

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 (156) days

Delete the phrase "by 156 days" and insert – by 267 days--

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JACKSON & CO., LLP
6114 LA SALLE AVENUE, APT 507
OAKLAND, CA 94611-2802

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MAR 3 1 2008

In re Application of	:	
BIGIOI, et al.	:	
Application No. 11/156,234	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. **FN125**	:	FROM RECORD
	:	

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **JACKSON & CO., LLP** has been revoked by the assignee of the patent application on October 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FOTONATION/IP DEPARTMENT**
800 AIRPORT BOULEVARD, SUITE 522
BURLINGAME, CA 94010

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

OCT 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,566,383	:	
Issue Date: July 28, 2009	:	
Application No. 11/156,242	:	ON PETITION
Filed: June 17, 2005	:	
Attorney Docket No. 12264-49	:	

This is a decision on the petition filed July 28, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Rollo J. Everett	: DECISION ON REQUEST FOR
Patent Number	: 7566383	: RECALCULATION of PATENT
Issue Date	: 07/28/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,242	: OF WYETH
Filed	: 06/17/2005	:
		:

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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APR 06 2007

OFFICE OF PETITIONS

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of
SHIN, Kyoungsub et al.
Application No. 11/156,266
Filed: June 17, 2005
Attorney Docket No. **UCALP064**

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 06, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Beyer Weaver LLP has been revoked by the assignee of the patent application on February 19, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **WITHROW & TERRANOVA, PLLC**
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518

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LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter Morrisroe	:	
Application No. 11/156,274	:	DECISION GRANTING PETITION
Filed: June 17, 20056	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 26914-103826	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 28, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 11, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2886 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.

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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NOV 21 2006

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of: ZARABI, ROBERT KAMBIZ Serial No.: 11/156,291 Filed: June 17, 2005 Docket: 5036P001 Title: UPPER BODY CONTROLLING AND SMOOTHING BODYSUIT	DECISION ON REQUEST FOR PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on April 20, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that all claims are directed towards a single invention; c) a statement that a pre-examination search was made on the USPTO database in Class 450; and d) 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. However, the petition does not meet the requirements of MPEP § 708.02(VIII)(b) and (e).

Regarding the requirement of MPEP § 708.02(VIII)(b), the applicant field to include a statement regarding 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. Although there are only seven claims in the case including one independent claim, the invention could involve different embodiments or species, which may be subject to restriction requirement. Therefore, this statement must be included in the petition.

Regarding the requirement of MPEP § 708.02(VIII)(d), since the cited references are U.S. patents and patent publications, then, no copy of cited references are necessary.

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 but does not point out the particular language that distinguishes independent claim 1 from all cited references. Applicant's general allegation that the applicant's claims are distinguishable over the various references as listed on the IDS for the reasons concerning woman's undergarment with a cup portion, front portion and first and second rear body portions with light-weight fabric runs contrary to 37 CFR § 1.111 (b), which does not allow for general allegations. Rather, each independent claim should be compared with each reference, and the differences between the two must be clearly stated. For *each* reference, the applicant must point out the specific differences between the reference and the language of independent claims. Because the petition does not point out the specific language in the independent claims 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 a detailed discussion of each reference that clearly points out the specific language in the independent claim that distinguishes over the reference. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Petition DISMISSED.

Karen M. Young, Director
Technology Center 3700

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SP-TI-3-1
CORNING, NY 14831

MAILED
JUN 04 2010
OFFICE OF PETITIONS

In re Application of :
Bruce G. Aitken et al :
Application No. 11/156,305 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. SP02-224A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 9, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). One month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 10, 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 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 1791 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed February 8, 2010 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of	:	**DECISION ON**
ZARABI, ROBERT KAMBIZ	:	**PETITION TO**
Application No.: 11/156,306	:	**MAKE SPECIAL**
Filed: June 17, 2005	:	

This is a decision on the petition filed on April 20, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

A petition under MPEP § 708.02(VIII) requires (1) a petition and the fee therefor, (2) the presentation of all claims directed to a single invention or a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so, (3) a statement that a pre-examination search was made, specifying whether the search was made by the inventor, the attorney, if any, a professional searcher, etc., and listing the field of search by class and subclass, (4) a copy of each reference deemed closely relevant to the claimed subject matter, and (5) a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's petition lacks item (5) above.

In regard to item (5), the discussion of references by petitioner does not point out the language in the claims that distinguishes them from the references as required by 37 CFR 1.111 (b) and (c). 37 CFR § 1.111 (b) states in part "[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." 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. Each prior art reference must be discussed individually relative to the patentable novelty of independent claim 1.

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)).

Since the petition is dismissed, the application will be examined in its regular turn.

Petitioners may file a renewed petition, without fee, addressing the points raised above. 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 1.102." The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.

Any inquiry regarding this decision should be directed to Linda J. Sholl, Special Program Examiner, at (571) 272-4391.

Linda J. Sholl

Linda J. Sholl
Special Program Examiner
Technology Center 3700

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8/1/07

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CALIFORNIA 90025

In re Application of: Zarabi, Robert Kambiz Serial No.: 11/156,306 Filed: June 17, 2005 Docket: 5036P002 Title: UPPER BODY CONTROLLING AND SMOOTHING BODYSUIT	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on July 17, 2006. Petitioner requests reconsideration of the dismissal of the previous petition to make the above-identified application special under 37 CFR § 1.102, mailed June 26, 2006. The petition fee of $130.00 has previously been charged to the Deposit Account provided in the petition.

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.

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).

Petition GRANTED

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Min-Hank Ho	: DECISION ON REQUEST FOR
Patent Number	: 7639819	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,307	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

DATE 5/18/07

APPLICATION NUMBER 11/156,315

DOC CODE Ref. Doc. TC

DOC DATE 5/21/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of :
Masashi Fukuyama et al :
Application No. 11/156,315 : ON PETITION
Filed: June 17, 2005 :
Attorney Docket No. 789 103 CIP

This is a decision on the petition, filed May 18, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SUITE 550
SAN JOSE CA 95110-1089

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FEB 15 2007

OFFICE OF PETITIONS

In re Application of :
Wilson Wai Shun Chan et al :
Application No. 11/156,318 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. 50277-2739 :

This is a decision on the petition, filed February 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 19, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2112 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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TECHNOLOGY CENTER 3600

Robert A. Kent
2600 South Second Street
Duncan, OK 73536

In re application of Jiten Chatterji et al. Application No. 11/156,356 Filed: June 17, 2005 For: SUBTERRANEAN TREATMENT FLUIDS, FRICTION REDUCING COPOLYMERS AND ASSOCIATED METHODS	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 15, 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. Chatterji indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED** .

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 09/06/05

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ADVANTEDGE LAW GROUP, LLC
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SUITE 200
PROVO, UT 84604

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Kristen N. Jaax, et al. :
Application No. 11/156,360 :
Filed: June 17, 2005 :
Attorney Docket No. 3013-0035 (05-00833-03) :

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**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request to withdraw less than all attorneys appointed by customer number 71418 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

Mail Date: 06/02/2010

Applicant	: Chun-Tiao Liu	: DECISION ON REQUEST FOR
Patent Number	: 7667565	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/156,361	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **426** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHICAGO, IL 60606

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ON PETITION

In re Application of	:
Arthur Palmer	:
Application No.: 11/156,362	:
Filed: June 17, 2005	:
Attorney Docket No.: 1650.73460	:

This is a decision on the petition, filed February 1, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 10, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3762 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO, CA 92121-2133

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OFFICE OF PETITIONS

In re Application of	:
Markus Joseph Macurer	:
Application No. 11/156,365	: DECISION GRANTING PETITION
Filed: June 17, 2005	: UNDER 37 CFR 1.10(c)
Attorney Docket No. BECK11650	:

This is a decision on the petition under 37 CFR 1.10(c), filed November 9, 2005, requesting that the above-identified application be accorded a filing date of June 17, 2005, rather than the presently accorded date of June 16, 2005.

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 17, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 627504140 US showing a "date-in" of June 17, 2005, as well as a stamped postal date of June 17, 2005. The same Express Mail receipt number was placed on the Certificate of Mailing of the original patent application papers.

In view of the evidence submitted, it is concluded that the application was deposited in Express Mail service on June 17, 2005. Accordingly, the instant application is entitled to a filing date of June 17, 2005, and has been so accorded. A corrected filing receipt with the June 17, 2005 filing date was mailed on November 21, 2005.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to Frances Hicks at (571) 272-3218.

This matter is being referred to Technology Center AU 1645 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of: RIHN, et al.
Application No. 11/156,373
Filed: June 16, 2005
For: MANAGING INFECTIOUS MESSAGES

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on July 31, 2006.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, **will make an election without traverse** as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Tod Swann
Quality Assurance Specialist
TC 2100

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United States Patent and Trademark Office
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EPSON RESEARCH AND DEVELOPMENT INC
INTELLECTUAL PROPERTY DEPT
2580 ORCHARD PARKWAY, SUITE 225
SAN JOSE, CA 95131

Mail Date: 04/20/2010

Applicant	: Yuji Takiguchi	: DECISION ON REQUEST FOR
Patent Number	: 7606408	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,385	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mail Date: 04/20/2010

Applicant	: Dusan Veselic	: DECISION ON REQUEST FOR
Patent Number	: 7657290	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1008** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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OFFICE OF PETITIONS

In re Application of	:	
Chun-Huan Wei	:	
Application No. 11/156,393	:	DECISION ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. 252011-3330	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 27, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 27, 2006. Accordingly, the date of abandonment of this application is December 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Pallab Midya	: DECISION ON REQUEST FOR
Patent Number	: 7649961	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INFINEON
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OFFICE OF PETITIONS

In re Application of
Werner Kroninger et al.
Application No. 11/156,405
Filed: June 20, 2005
Attorney Docket No: 10808/248

ON PETITION

This is a decision on the petition filed February 6, 2008, to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative, to revive the above identified application under 37 CFR 1.137(b). [1]

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition to revive under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned on November 19, 2007, for failure to file a timely response to the Notice of Drawing Inconsistency with Specification mailed October 18, 2007. The office action set a reply period of the longer of one month or thirty days. Accordingly, a Notice of Abandonment was mailed on December 25, 2007.

In the petition to withdraw the holding of abandonment under 37 CFR 1.181, petitioner asserts that a response to the October 18, 2007 had been timely filed and has submitted a copy of the reply said to have been sent but not received in the U.S. Patent and Trademark Office. The document contains a signed certificate of mail pursuant to 37 CFR 1.8, dated October 26, 2007.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Accordingly, the holding of abandonment is withdrawn. In view thereof, the petition under 37 CFR 1.137(b) is moot. The petition fee therefore is unnecessary and will be credited back to deposit account no. 23-1925.

This matter is being referred to the Patent Publication Branch.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INFINEON
PO BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Patent No. 7,351,514 :
Issue Date: April 1, 2008 :
Application No. 11/156,405 : DECISION ON PETITION
Filed: June 20, 2005 :
Attorney Docket No. 10808/248 :

This is a decision on the Request Under 3.81(B), filed April 24, 2009, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct assignee's name on the previously submitted PTOL 85B and that such was a typographical error. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from:

"Infineon Technologies, Inc."

to:

--Infineon Technologies AG—

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 requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a) and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) were submitted with the Petition. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,351,514.

Brian W. Brown
Petitions Examiner
Office of Petitions

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YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

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OFFICE OF PETITIONS

In re Application of	:	
Jeff MOLER, et al	:	
Application No. 11/156,408	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. PKH-148-C		FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorneys of record were appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: LARRY S. HYMAN, C.P.A.
MICHAEL MOECKER & ASSOCIATES, INC.
106 S. TAMPANIA AVE. SUITE 200
TAMPA, FL 33609

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100419

DATE : April 19, 2010

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Quyen Leung/
Supervisory Patent Examiner, Art Unit 2834

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QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O BOX 2113
MADISON, WI 53701-2113

Mail Date: 04/26/2010

Applicant	: Thomas Albert	: DECISION ON REQUEST FOR
Patent Number	: 7636637	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/156,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1002** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
6075 Poplar Avenue
Suite 500
Memphis, TN 38119

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OFFICE OF PETITIONS

In re Application of	:	
Daniel Payne Robertson, et al.	:	
Application No. 11/156,457	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO WITHDRAW
Attorney Docket No. 029889.	:	FROM RECORD
	:	

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 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. 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 Hemant Gupta 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 Daniel Payne Robertson at the address indicated below.

There is an outstanding Office action mailed October 27, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Daniel Payne Robertson**
2975 Kate Bond Road
Bartlett, TN 38133

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/156,457	06/21/2005	Daniel Payne Robertson	029889.64674

CONFIRMATION NO. 7121

POWER OF ATTORNEY NOTICE

28172
BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS, TN 38119

OC000000039569281

Date Mailed: 01/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2009.

- 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.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/27/2010

Applicant	: Benjamin Charles Levitan	: DECISION ON REQUEST FOR
Patent Number	: 7623842	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/156,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Yao-Ching Stephen Chen	: DECISION ON REQUEST FOR
Patent Number	: 7580958	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **469** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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J M HUBER CORPORATION
333 THORNALL STREET
PATENT DEPARTMENT
EDISON NJ 08837-2220

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Withiam et al.	:	
Application No. 11/156,512	:	DECISION
Filed: 9 February, 2007	:	
Attorney Docket No. 04-215B	:	

This is a decision on the petition filed on 1 December, 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 as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 March, 2008, with reply due absent extension of time on or before 30 June, 2008.

The application went abandoned by operation of law after midnight 30 June, 2008.

The Office mailed the Notice of Abandonment on 15 October, 2008.

On 1 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with fee, a reply in the form of an amendment, and made a statement of unintentional delay.

(It appears that, while the correspondence address is other than that on the petition, Petitioner herein has been of record since the application was filed and is so presumed to be in a position to make the statement of unintentional delay. *If the person signing the statement of unintentional delay* ***was not*** *in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, then such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.*[1] *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 C.F.R. §1.137(b) was unintentional, Petitioner* ***must*** *notify the Office.*)

The regulations at 37 C.F.R. §1.137(b)(3) require 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 appearing in the petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement is being construed as the required statement. Petitioner ***must*** *notify the Office if this is* ***not*** *a correct reading of the statement appearing in the petition.*

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

---

[1] See 37 C.F.R. §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).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

As to Allegations of
Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 1793 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

Mail Date: 04/20/2010

Applicant	: Peter Klein	: DECISION ON REQUEST FOR
Patent Number	: 7631390	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,514	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1213** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KRAMER & AMADO, P.C.
1725 DUKE STREET
SUITE 240
ALEXANDRIA VA 22314

COPY MAILED

SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Roberts et al. : DECISION GRANTED
Application No. 11/156,566 :
Filed: June 21, 2005 :
Attorney Docket No.: ALC 3181 :

This is a decision on the petition filed September 12, 2005, requesting to accept omitted item(s)(figures 2 and 3) in a nonprovisional application.

The application was filed on June 21, 2005. However, on July 18, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 21, 2005 but figures 2 and 3 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein petitioner contends figures 2 and 3 were filed on June 21, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists "Figs. 1-3)". The petition is further accompanied by a copy of figures 2 and 3.

Applicants' postcard receipt is prima facie evidence that figures 1-3 including figures 2 and 3 as described in the specification were received on June 21, 2005, but figures 2 and 3 are not present in the file. Therefore, it is concluded that figures 2 and 3 were received on June 21, 2005, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The $400.00 petition fee will be refunded.

Since figures 2 and 3 as described in the specification cannot be located in the Office, figures 2 and 3 supplied on September 12, 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 June 21, 2005, using the drawings submitted on June 21, 2005 and copies of figures 2 and 3 supplied with the petition on September 12, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Kramer & Amado, P.C.
1725 Duke Street
Suite 240
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Peter Roberts	: DECISION ON REQUEST FOR
Patent Number	: 7590053	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,566	: OF WYETH
Filed	: 06/21/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/156,575	06/21/2005	Wesley H. Verkaart	70869-0072C	7847

22902 7590 07/23/2008
CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON, DC 20005

EXAMINER
GILBERT, ANDREW M

ART UNIT	PAPER NUMBER
3767	

MAIL DATE	DELIVERY MODE
07/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Clark & Brody
1090 Vermont Avenue, NW
Suite 250
Washington, DC 20005

In re Application of: Wesley H. Verkaart Serial No.: 11/156,575 Filed: Jun. 21, 2005 Docket: 70869-0072C Title: Apparatus For Holding One or More Syringes	DECISION ON PETITION TO ENTER AMENDMENT AFTER FINAL

This is a decision on the petition filed on Jun. 24, 2008 to enter an Amendment After Final Rejection under 37 CFR § 1.116. The petition is being considered pursuant to 37 CFR § 1.181 and no fee therefore is required.

The petition is **GRANTED**.

In the petition, petitioner argues that the applicant merely adopted the examiner's suggested language for the claims in the amendment under 37 CFR § 1.116. Therefore, the amendment did not raise any new issues and should be entered.

As such, the finality of the Office action issued on Sep. 24, 2007 is hereby withdrawn. Since the finality is being withdrawn, the amendment responding to the Office action dated Sep. 24, 2008 is hereby treated as a 37 CFR § 1.111 amendment. In finding petitioner's points of argument persuasive, the requested relief is granted. The amendment filed on Mar. 24, 2008, has been entered. The examiner is directed to examine the amendment of Mar. 24, 2008 under 37 CFR § 1.111.

Any questions regarding this decision should be directed to Special Program Examiner, Henry Yuen, at 571-272-4856.

Petition Granted.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 16, 2010

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 11156612 Patent No.: 7358808

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Do not change column 12, line 33 as this proposed change would effect the scope of claim 34

SPE 2817 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLET PACKARD COMPANY
PO BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JAN 22 2008
OFFICE OF PETITIONS

In re Application of	:	
Richard Anthony Lawrence et al	:	
Application No. 11/156,629	:	DECISION GRANTING PETITION
Filed: June 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 200502102-1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 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 January 7, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2863 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090519

DATE : May 18, 2009

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction on Patent No.: 7,480,844

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:

/Robert W. Beausoliel, Jr./
Supervisory Patent Examiner, Art Unit 2113

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAIL

SEP 2 5 2007
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
HIDEAKI YUI	:	DECISION ON REQUEST TO
Application No. 11/156656	:	PARTICIPATE IN PATENT
Filed: June 21, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 02910.104429	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 4, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Kathy Manke
Avago Technologies Limited
4380 Ziegler Road
Fort Collins, CO 80525

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of :
John D. Larson III, et. al. :
Application No. 11/156,676 : ON PETITION
Filed: June 20, 2005 :
Attorney Docket No. 10050427-01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection action of September 7, 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 on July 17, 2008 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, Petitioner should note that the Examiner has responded to the Amendment after Final with an Advisory Action (copy enclosed).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Scott D. Weitzel appearing on the petition shall constitute a representation to the

United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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 Denise Williams at (571) 272-8930.

Brian Brown
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/156,676	Applicant(s) LARSON ET AL.	
	Examiner Benny Lee	Art Unit 2817	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 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 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): cls 1-14 on prior art grounds.
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: *1-14; 15-17,19-24,26,27*.
   Claim(s) objected to: *18 and 25*.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/BENNY LEE/
PRIMARY EXAMINER
ART UNIT 2817

Continuation of 3. NOTE: The proposed amendment of 17 July 2008 amends cl 15 to include allowable subject matter from cls 17, 18. However, cls 24, 25 include the same subject matter already found in amended cl 15 and the inclusion of such subject matter found in these cls which are dependent from amended cl 15 raises issues of indefiniteness under 35 USC 112.

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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLING CO 80525

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
John D. Larson III et al	:	
Application No. 11/156,676	:	DECISION ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. 10050427-01	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 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 final rejection mailed September 7, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2817 for appropriate action by the Examiner in the normal course of business on the reply received December 29, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND PA 17557

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OFFICE OF PETITIONS

In re Application of	:	
Bordoni	:	
Application No. 11/156,687	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. 17662-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, the attorney no longer represents the assignee, does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

for Denise Pothier
Petitions Examiner
Office of Petitions

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Chan-Byoung Chae	: DECISION ON REQUEST FOR
Patent Number	: 7606320	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Curtis McDowell	: DECISION ON REQUEST FOR
Patent Number	: 7600214	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,700	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **926** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Patent No. 7,257,277	:	
Issue Date: August 14, 2007	:	
Application No. 11/156,715	:	DECISION ON PETITION
Filed: June 21, 2005	:	
Attorney Docket No. 1906-0127PUS2	:	

This is a decision on the petition filed July 3, 2008 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 has submitted a $400.00 petition fee. Pursuant to petitioner's request $270.00 is being refunded. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and the processing fee pursuant to 37 CFR 1.17(i) is $130.00. A petition fee is no longer required.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. 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.

Charlema Grant
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081014

DATE : October 14, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,257,277

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:

/Brian P. Werner/
Supervisory Patent Examiner, Art Unit 2624

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VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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OFFICE OF PETITIONS

In re Application of :
Jong-Yeol PARK et al. :
Application No. 11/156,721 : DECISION ON PETITION
Filed: June 21, 2005 :
Attorney Docket No. SEC.1349 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 04, 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 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 29 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on 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 $1440.00 and publication fee of $300.00; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Takashi Arai	: DECISION ON REQUEST FOR
Patent Number	: 7580397	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,733	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 20 2006

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re Application of	:
Edward M. Lane	:
Serial No.: 11/156,744	: PETITION TO MAKE SPECIAL
Filed: June 21, 2005	:
Attorney Docket No.: 3030-139	:

This is in response to the petition filed June 21, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE SUITE 250
ALISO VIEJO CA 92656

In re Application of	:	
Zecevic, et al.	:	
Application No. 11/156,750	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. SARAX-017A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed January 26, 2009. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on April 27, 2009. The Office mailed a Notice of Abandonment on September 17, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 1795 for consideration of the Amendment filed September 14, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 22, 2008

TO SPE OF : ART UNIT 2852
SUBJECT : Request for Certificate of Correction for Appl. No.:/11/156773 /7366448

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/David M. Gray SPE 2852

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MERCHANT & GOULD PC
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OFFICE OF PETITIONS

In re Application of	:	
Karen Berry-Cayre	:	
Application No. 11/156779	:	
Filing or 371(c) Date: 06/20/2005	:	ON PETITION
Attorney Docket Number: 15117.1US01	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 12, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 13 13, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay[1] have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 3673 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] 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.

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MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of
Karen BERRY-CAYRE
Application No. 11/156,779
Filed: June 20, 2005
Attorney Docket No. 15117.1US01

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 3, 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 Joshua N. Randall on behalf of all attorneys/agents of record associated with Customer Number 23552.

All attorneys/agents of record associated with Customer Number 23552 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed December 31, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KAREN BERRY-CAYRE
6317 N. CALLE DEL HALCON
TUCSON, AZ 85718-3347

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/156,779	06/20/2005	Karen Berry-Cayre	15117.1US01

CONFIRMATION NO. 7734

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

POWER OF ATTORNEY NOTICE

OC000000027682297

Date Mailed: 01/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/03/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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4417 LANCASTER PIKE
WILMINGTON DE 19805

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JUN 15 2010

OFFICE OF PETITIONS

In re Application of
Avgenaki et al.
Application No 11/156,808
Filed: June 20, 2005
Attorney Docket No. FA1446USNA

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 2, 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 April 27, 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). 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 July 28, 2009. A Notice of Abandonment was mailed November 4, 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1715 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

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Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Ronald S. Karr	: DECISION ON REQUEST FOR
Patent Number	: 7669032	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,820	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **180** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Anand A. Kekre	: DECISION ON REQUEST FOR
Patent Number	: 7636801	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **521** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ROCHE DIAGNOSTICS OPERATIONS INC.
9115 Hague Road
Indianapolis, IN 46250-0457

Mail Date: 04/20/2010

Applicant	: Hans Hornauer	: DECISION ON REQUEST FOR
Patent Number	: 7608466	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,855	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **452** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PATRICK R. SCANLON
PRETI FLAHERTY BELIVEAU PACHIOS & HALEY LLP
ONE CITY CENTER
PORTLAND ME 04112-9546

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OFFICE OF PETITIONS

In re Application of Lloyd E. Weaver Application No. 11/156,863 Filed: June 20, 2005 Attorney Docket No.: 30740US01 Title: SINGLE VESSEL BLAST FURNACE AND STEEL MAKING/GASIFYING APPARATUS AND PROCESS	DECISION ON PETITION

This is a decision on the petition filed August 24, 2005, requesting that the above-identified application, including Figures 1-2, be accorded a filing date of June 20, 2005 as part of the original disclosure.

The application was deposited on June 20, 2005. However, on July 8, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings.

In response, on August 24, 2005, applicants filed the present petition. The petition is further accompanied by a copy of 2 sheets of drawings containing Figures 1-2, along with a copy of applicants' postcard receipt acknowledging receipt of "Drawings (2 sheets)" in the United States Patent and Trademark Office (Office) on June 20, 2005. Applicants request that Figures 1-2 be accorded a filing date of June 20, 2005.

No sheets of drawings have been located among the application papers in the electronic file. However, the evidence is convincing that the application papers deposited on June 20, 2005 included 2 sheets of drawings, and these sheets were subsequently misplaced in the Office.

Therefore, the application, including Figures 1-2, was complete on filing and entitled to a filing date of June 20, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed July 8, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded via the mailing of a Treasury Check in due course.

OIPE will be notified that the application should receive a filing date of June 20, 2005, using the original application papers filed on that date, as well as Figures 1-2 submitted on August 24, 2005, and it will be noted in Office records that this sheet of drawings was present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/21/2010

Applicant	: Andrew Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7596767	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,873	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **778** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO, CA 92691

In re Application of	:	
S. Lee Hancock, et al.	:	
Application No. 11/156,875	:	DECISION ON REQUEST
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. 02GOT206P-CON2	:	FROM RECORD
	:	

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 20, 2005 and resubmitted on September 23, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others and include a proper reason for the withdrawal as set forth in 37 CFR 10.40(b) or (c). 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, "Termination of Attorney-Client Relationship", does not clearly 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. A copy of this decision is being mailed to the address noted on the request to withdraw.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: S. Lee Hancock
UDS Directory Corp./WGRS Licensing Company, LLC
18400 Von Karman, Suite 610
Irvine, CA 92612

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CHALKER FLORES, LLP
2711 LBJ FRWY
SUITE 1036
DALLAS, TX 75234

In re Application of
Milton Whitaker Datta, et al.
Application No. 11/156,879
Filed: June 17, 2005
Attorney Docket No. TAMU:1000RCE

ON PETITION

This is a decision in response to the petition, filed September 18, 2009, 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 an Office communication mailed August 18, 2008. A Notice of Abandonment was mailed on March 11, 2009. In response, on September 18, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b).

The application is being referred to Technology Center AU 1642 for consideration of the response filed September 18, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543

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In re Application of	:	
Maze et al.	:	
Application No. 11/156,897	:	DECISION ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. RCA87833B, Div.2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 19, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 20, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $510, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2623 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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DINSMORE & SHOHL LLP
One Dayton Centre
Suite 1300
One South Main Street
Dayton, OH 45402-2023

Mail Date: 04/21/2010

Applicant	: John Li	: DECISION ON REQUEST FOR
Patent Number	: 7622095	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **999** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Orum & Roth LLC
53 West Jackson Blvd.
Chicago IL 60604

In re Application of	:	
Hideaki Takahashi et al.	:	
Application No. 11/1569,24	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. 14182	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. 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 Buiei
Petitions Examiner
Office of Petitions

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53 W Jackson Boulevard
Chicago IL 60604-3606

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In re Application of	:	
SAITO, et al.	:	
Application No. 11/156,925	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. 14181	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Gemrich.

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

A Review of the file discloses that a Notice of Non-Compliant Amendment was mailed on September 26, 2006, which set forth a one month shortened statutory period for reply. To date, there is no indication that a reply to the Office action of September 26, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS, TX 75202

Mail Date: 04/21/2010

Applicant	: Bryan D. McCallum	: DECISION ON REQUEST FOR
Patent Number	: 7600644	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **771** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INNOVATION COUNSEL LLP
21771 STEVENS CREEK BLVD
STE 200A
CUPERTINO CA 95014

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OFFICE OF PETITIONS

In re Application of	:	
Yu, et al.	:	
Application No. 11/156,946	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. PANK01418US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 15, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed August 26, 2009. This Notice set a statutory period for reply of three months. No issue fee having been received, the application became abandoned on November 27, 2009. The Office mailed a Notice of Abandonment on December 9, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON, TX 77070

Mail Date: 04/21/2010

Applicant	: Jeffrey Rodman	: DECISION ON REQUEST FOR
Patent Number	: 7660428	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,954	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Patent Capital Group
6119 McCommas Blvd
Dallas, TX 75214

Mail Date: 04/20/2010

Applicant	: Chris S. Terrill	: DECISION ON REQUEST FOR
Patent Number	: 7617134	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/156,960	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **894** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/16/08

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11156982 Patent No.: 7379727 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte 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: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
SPE TECHNOLOGY CENTER 2600 **Art Unit** 2618

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/16/08

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11156982 Patent No.: 7379727 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte 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: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
SPE TECHNOLOGY CENTER 2600 **Art Unit** 2618

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	
SONG, et al.	:	
Application No. 11/156,998	:	DECISION GRANTING PETITION
Filed: June 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **29936/41313**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 16, 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 25, 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 2891 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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Hirofumi Yudahira	: DECISION ON REQUEST FOR
Patent Number	: 7557585	: RECALCULATION of PATENT
Issue Date	: 07/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,021	: OF WYETH
Filed	: 06/20/2005	:
		:

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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Jong Dae Park	: DECISION ON REQUEST FOR
Patent Number	: 7633578	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,026	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **506** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102-3702

Mail Date: 04/21/2010

Applicant	: Scott R. Presnell	: DECISION ON REQUEST FOR
Patent Number	: 7608426	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,049	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **867** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY (74074)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Patrick H. Kilawee	: DECISION ON REQUEST FOR
Patent Number	: 7569150	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,073	: OF WYETH
Filed	: 06/20/2005	:
		:

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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David Hall Law Firm
P.O. Box 1540
Blanco, TX 78606

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of	:	
William Wayne Maxwell	:	
Application No. 11/157,084	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 8, 2007, 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 2, 2007. A Notice of Abandonment was mailed on July 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 04/20/2010

Applicant	: Make Morris	: DECISION ON REQUEST FOR
Patent Number	: 7621270	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,089	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1187** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP
333 BRIDGE STREET, NW
P.O. BOX 352
GRAND RAPIDS, MI 49501-0352

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of Sanchez et al. :
Application No. 11/157,101 :
Filing Date: June 20, 2005 :
Attorney Docket No. Sanchez P1US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 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 February 16, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on May 17, 2006. A Notice of Abandonment was mailed on November 1, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $770. Petitioner has submitted a reply to the February 16, 2006 non-final Office action.

Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. *See Changes to Patent Practice and Procedure*, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3651 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

Applicant	: Stephen T. Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7578987	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,102	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1101** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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PATENTMETRIX
14252 CULVER DR. BOX 914
IRVINE, CA 92604

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OCT 1 9 2006
OFFICE OF PETITIONS

In re Application of Goldberger et al. :
Application No. 11/157,110 : Decision on Petition
Filing Date: June 20, 2005 :
Attorney Docket No. GLU103.Ord :

This is a decision on the petition filed May 24, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

A Notice to File Missing Parts was mailed July 14, 2005. The Notice required, in part, the submission of the following fees:

(1) $150 for the filing fee,
(2) $65 for the late submission of an oath or declaration,
(3) $250 for the search fee,
(4) $100 for the examination fee,
(5) $1100 for 11 independent claims over 3, and
(6) $2100 for 84 total claims over 20.

The total due for the fees listed above was $3,765.

Petitioner allegedly filed a reply to the Notice of Missing Parts on December 14, 2005, along with a request for a three-month extension of time. The required fee due for the three-month extension of time was $510. Therefore, the total fee due on December 14, 2005 was $4,275 ($3,765 + $510).

The response stated, "Applicant is therefore submitting $3,765 in total fees on attached Credit Card form PTO-2038."

Petitioner owed a total of $4,275. Petitioner only submitted $3,765. Therefore, the application is abandoned.

The Office notes the declaration fails to list a mailing address for each inventor. A Supplemental Application Data sheet or a supplemental declaration with the mailing address for each inventor should be submitted with any future petition.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

When one revives an application under 37 CFR 1.137, one does not need to submit payment for an extension of time. Therefore, Petitioner should note the $510 payment for the three-month extension of time does not need to be submitted with the petition under 37 CFR 1.137(b).

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

PATENTMETRIX
14252 CULVER DR. BOX 914
IRVINE, CA 92604

In re Application of Goldberger et al.	:	
Application No. 11/157,110	:	Decision on Petition
Filing Date: June 20, 2005	:	
Attorney Docket No. GLU103.Ord	:	

This is a decision on the petition filed November 1, 2006, under 37 CFR 1.137b to revive the instant application.

The petition is **granted.**

A Notice to File Missing Parts was mailed July 14, 2005. The Notice required, in part, the submission of $3,765. Petitioner allegedly filed a reply to the Notice of Missing Parts on December 14, 2005, along with a request for a three-month extension of time. However, petitioner failed to supply the required fee for the extension of time. Therefore, the application became abandoned on September 15, 2005.

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 take 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

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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Potomac Patent Group PLLC
P.O. Box 270
Fredericksburg, VA 22404

Mail Date: 04/20/2010

Applicant	: John P. Scoggins	: DECISION ON REQUEST FOR
Patent Number	: 7588075	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **325** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHALKER FLORES, LLP
2711 LBJ FRWY
SUITE 1036
DALLAS, TX 75234

In re Application of	:	
Seshadri S. Ramkumar	:	
Application No. 11/157,124	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. TECH:1002	:	

This is a decision on the petition under 37 CFR 1.313(c), filed February 6, 2009 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue so that the Examiner may review the references. However, 37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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) 273-0025**
Office of Petitions

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHALKER FLORES, LLP
2711 LBJ FRWY
SUITE 1036
DALLAS, TX 75234

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OFFICE OF PETITIONS

In re Application of
Seshadri S. Ramkumar
Application No. 11/157,124
Filed: June 20, 2005
Attorney Docket No. TECH:1002

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed February 6, 2009 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue so that the Examiner may review the references. However, 37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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) 273-0025**
Office of Petitions

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS, TX 75234

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FEB 17 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Seshadri S. Ramkumar :
Application No.: 11/157,124 :
Filed: June 20, 2005 :
Attorney Docket No.: TECH:1002 :

This is a decision on the petition, filed February 16, 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 January 15, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3765 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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OFFICE OF PETITIONS

THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON, MD 21286

In re Application of James R. Parks, et al. Application No. 11/157,126 Filed: June 20, 2005 Attorney Docket No. TN-2174A	: : : : :	ON PETITION

This is a decision on the petition, filed November 13, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before June 22, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 22, 2006. Accordingly, the date of abandonment of this application is June 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, the publication fee of $300, and corrected formal drawings, (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to oversee the review of the drawing filed November 13, 2006 and for processing into a patent.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Cameron Kerrigan
Squire, Sanders & Dempsey LLP
Suite 300
One Maritime Plaza
San Francisco, CA 94111-3492

Mail Date: 06/03/2010

Applicant	: Svava Maria Atladottir	: DECISION ON REQUEST FOR
Patent Number	: 7622070	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/157,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow Road
Suite 108
Melville, NY 11747

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AUG 27 2008

In re Application of	:	
Luke Liang et al.	:	
Application No. 11/157,146	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. 61019US002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of June 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2).

As to item 1, the amendment filed on January 28, 2008 does not *prima facie* place the application in condition for allowance, therefore the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of an advisory action.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Courtesy copy of advisory action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/157,146	Applicant(s) LIANG ET AL.	
	Examiner ALYSON M. MERLINO	Art Unit 3673	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: Newly added limitations to claim 12 regarding the legs would require further search and/or consideration.

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Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow Road
Suite 108
Melville, NY 11747

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Luke Liang et al.	:	
Application No. 11/157,146	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. 61019US002	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The 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 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is September 29, 2007. A Notice of Abandonment was mailed on January 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 RCE, with the required fee of $405, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The petition decision mailed August 27, 2008 dismissed the petition filed January 28, 2008 for failure to submit a proper reply. The renewed petition includes a proper reply with a RCE.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3673 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN, TX 78716-4140

MAILED

JUL 06 2009

OFFICE OF PETITIONS

In re Application of :
Matthew W. HICKEY, et al :
Application No. 11/157,180 : ON PETITION
Filed: June 20, 2005 :
Attorney Docket No. C061CON :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 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 May 1, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/264,042.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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JUN 19 2007

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of	:	
Keiki Yoshitsugu	:	
Application No. 11/157,185	:	ON PETITION
Filed: June 21, 2005	:	
Attorney Docket No. 069804-0083	:	

This is a decision on the petition, filed June 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2873 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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United States Patent and Trademark Office
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JUN 19 2007

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of	:	
Keiki Yoshitsugu	:	
Application No. 11/157,185	:	ON PETITION
Filed: June 21, 2005	:	
Attorney Docket No. 069804-0083	:	

This is a decision on the petition, filed June 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

RECEIVED
JUN 21 2007
McDermott Will & Emery LLP
DC Office

[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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RAYMOND Y. CHAN
108 N. YNEZ AVE., #128
MONTEREY PARK CA 91754

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MAR 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
LIN, Mou-Shiung	:	
Application No. 11/157,186	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. **16093 B**	:	FROM RECORD
	:	

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 01, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to RAYMOND Y. CHAN has been revoked by the assignee of the patent application on March 03, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JOHN CHEN**
ROOM 303, 3F, NO. 25, SEC. 1
CHANGAN E. ROAD
TAIPEI, TAIWAN 10441

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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MAR 28 2006

OFFICE OF PETITIONS

In re Application of :
Koya, et al. :
Application No. 11/157,213 :
Filed: June 20, 2005 :
Attorney Docket No. 3211.1014-002 :
For: BIS(THIO-HYDRAZIDE AMIDE)
SALTS FOR TREATMENT OF CANCERS

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed February 21, 2006 (certificate of mailing date February 15, 2006).

The petition is granted.

Petitioners have shown that the non-signing inventor, Farid Vaghefi, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Linda Mackie, an administrative assistant employed by the inventor's former employer, Synta Pharmaceuticals Corporation, establishes that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to multiple requests that he sign the declaration. 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 this decision is mailed, the above-identified application will be forwarded to Technology Center A.U. 1614 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Farid Vaghefi
7 Colburn Street
Burlington, MA 01803

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MAR 28 2006

OFFICE OF PETITIONS

LETTER

In re Application of :
Koya, et al. :
Application No. 11/157,213 :
Filed: June 20, 2005 :
Attorney Docket No. 3211.1014-002 :
For: BIS(THIO-HYDRAZIDE AMIDE)
SALTS FOR TREATMENT OF CANCERS

Dear Dr. Vaghefi:

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, the contact person listed below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382(outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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United States Patent and Trademark Office
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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: David J. Yonce	: DECISION ON REQUEST FOR
Patent Number	: 7593771	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,244	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 05/18/2010

Applicant : David J. Yonce
Patent Number : 7593771
Issue Date : 09/22/2009
Application No : 11/157,244
Filed : 06/21/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1036** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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PERKINS COIE, LLP
P.O. BOX 1247
PATENT - SEA
SEATTLE WA 98111-1247

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NOV 15 2006

OFFICE OF PETITIONS

In re Application of	:	
John F. Takacs, et al.	:	
Application No. 11/157,245	:	DECISION GRANTING PETITION
Filed: June 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 030048190US	:	

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 October 13, 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 concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3644 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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Sunny Behl	:	
Application No. 11/157,248	:	DECISION GRANTING FILING
Filed: June 20, 2005	:	DATE OF JUNE 20, 2005
Attorney Docket No. 022193-101020US	:	

This is a decision on the petition filed August 29, 2005, under 37 CFR 1.10 (d), requesting that the above-identified application be accorded a filing date of June 20, 2005, rather than the presently accorded filing date of June 22, 2005.

Petitioner alleges that the date indicated in the Date-In field of the Express Mail label is incorrect. In support, petitioner has submitted a copy of the Express Mail Label No. EV251378485US showing a date stamp of June 20, 2005, by the USPS at the Gateway Station in San Francisco, CA. The same Express Mail receipt number appears on the original Application Transmittal filed with the instant application. Additionally, petitioner supplied a copy of the USPS Track and Confirm showing an acceptance date of June 20, 2005.

In view of the above, it is concluded that the application was deposited as "Express Mail" with the US Postal Service on June 20, 2005.

The petition is **granted**.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of June 20, 2005, and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/157,248	06/20/2005	2611	1200	022193-101020US	4	24	3

CONFIRMATION NO. 6426

CORRECTED FILING RECEIPT

OC000000017984168

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 02/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Sunny Behl, San Jose, CA;

Assignment For Published Patent Application

Steinbeck Cannery, LLC, Los Altos, CA

Power of Attorney: The patent practitioners associated with Customer Number **20350**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/610,053 07/05/2000 PAT 6,925,246

Foreign Applications

If Required, Foreign Filing License Granted: 07/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/157,248

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Television recorder having a removable hard disk drive

Preliminary Class

725

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

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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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DIRECTORS OFFICE
JUL 12 2007
TECHNOLOGY CENTER 2800

In re Patent No. SALSMAN, KENNETH E.	:	
Appl No.: 11/157,272	:	**DECISION GRANTING**
Filed: June 20, 2005	:	**PETITION**
For: SENSOR FOR DETECTING HIGH FREQUENCY SIGNALS	:	*37 CFR 1.48(a)*

In view of the papers filed February 2, 2007, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by **adding Daniel W. So as an inventor**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821
Technology Center 2800

MATTHEW J. ESSERMAN
1921 SPRUCE STREET-1F
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL KULAKOWSKI
5 CARLSON COURT
JACKSON NJ 08527

COPY MAILED

APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Kulakowski et al.	:	
Application No. 11/157,282	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 1, 2006, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a doctor's certificate stating the health of the applicant is such that he or she might not be able to assist in the prosecution of the application if it were to run its normal course. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3621 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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MCGUIREWOODS, LLP
1750 TYSONS BLVD, SUITE 1800
MCLEAN, VA 22102

MAILED

JUL 06 2009

OFFICE OF PETITIONS

In re Application of
Michael KULAKOWSKI, et al.
Application No. 11/157,282
Filed: June 21, 2005
Attorney Docket No. **2052803-5001US**

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 24, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Charles J. Gross on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor Michael Kulakowski at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 15, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **MICHAEL KULAKOWSKI**
P.O. BOX 471
RANCHO SANTE FE, CA 92067

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Zilka-Kotab, PC
P.O. Box 722120
San Jose, CA 95172-1120

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of :

Roy E. Scheuerlein :
Application No. 11/157,293 : DECISION ON PETITION
Filed: June 20, 2005 : TO WITHDRAW
Attorney Docket No. MAT1P001/MD240 : FROM RECORD
:

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 20, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kevin J. Zilka 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 Roy E. Scheuerlein at the address indicated below.

There is an outstanding Office action mailed June 13, 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: **Roy E. Scheuerlein**
22145 Orchard Court
Cupertino, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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VAN PELT, YI & JAMES LLP AND APPLE COMPUTER, INC.
10050 N. FOOTHILL BOULEVARD
SUITE 200
CUPERTINO, CA 95014

Mail Date: 04/21/2010

Applicant	: Patrick Gates	: DECISION ON REQUEST FOR
Patent Number	: 7584468	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **969** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JONES DAY
P.O. BOX 660623
DALLAS TX 75266-0623

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DEC 2 2 2006
OFFICE OF PETITIONS

In re Application of	:
Danio B. Crosetto	:
Application No. 11/157,313	: DECISION ON PETITION
Filed: 20 June, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 510974-600016	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 23 August, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2884 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/157,313	06/20/2005	2884	500	510974-600016	10	18	1

CONFIRMATION NO. 8592

CORRECTED FILING RECEIPT

OC000000021673432

5369
JONES DAY
P.O. BOX 660623
DALLAS, TX 75266-0623

Date Mailed: 12/20/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Dario B. Crosetto, DeSoto, TX;

Power of Attorney: The patent practitioners associated with Customer Number **05369**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/934,829 09/02/2004 ABN
which is a CON of 10/721,345 11/25/2003 ABN
which is a DIV of 10/376,024 02/26/2003 ABN
This application 11/157,313
is a CIP of 10/706,821 11/10/2003 PAT 7,132,664
which claims benefit of 60/424,933 11/09/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/157,313

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for determining depth of interactions in a detector for three-dimensional complete body

screening

Preliminary Class

250

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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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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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February 24, 2010

Patent No. : 7,540,436 B2
Appl. No. : 11/157,314
Inventor(s) : Charles J. Truan, et al.
Issued : June 2, 2009
Title : **TRUCK BED MOUNTED SPREADER**
Docket No. : **602610-069**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS MI 48304-2970

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DICKINSON WRIGHT PLLC

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TELEPHONE: (248) 433-7200
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CONFIRMATION ☑

TO:	COMPANY:
Office of Petitions	U.S. Patent & Trademark Office
FAX NUMBER: 571-273-8300	PHONE NUMBER:

From: William H. Honaker **Date:** April 20, 2010

Total Number of Pages Including Cover Sheet: 7

Message:

In re Application of
Charles J. Truan, et al.
Application No. 11/157,314
Filed: June 21, 2005
Title: TRUCK BED MOUNTED SPREADER
Our Ref. No. 602610-069

Enclosures:

Request Under 37 CFR § 3.81(b)
Request for Certificate of Correction
Certificate of Correction
Notice of Recordation of Assignment Document

If you have not received the total number of pages, please call the facsimile department at (248) 646-4300. *Thank you.*

IMPORTANT – This message is intended solely to be used by the individual or entity to which it is addressed. It may contain information which is privileged, confidential and otherwise exempt by law from disclosure. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to its intended recipient, you are herewith notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone immediately and return this communication to us at the above address via the United States Postal Service. *Thank you.*

OFFICE CODE

Client Name: Trynex	**Matter Name:**
Client/Matter Number: 602610-069	**Attorney Initials:** WHH
Attorney Number: [1177]	**No. of Pages:** 7
Secretary/Ext.: KP/7387	**Amount:**

PAGE 1/7 * RCVD AT 4/20/2010 1:19:07 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/7 * DNIS:2738300 * CSID:248 433 7274 * DURATION (mm-ss):01-24

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Patent No.: 7,540,436

Inventor: Charles J. Truan, et al. Art Unit: 3752

Appln. No.: 11/157,314

Issued: June 2, 2009 Conf. No. 8593

For: TRUCK BED MOUNTED SPREADER

REQUEST UNDER 37 CFR § 3.81(b)

Mail Stop Petitions
Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

An error regarding the Assignee's name occurred on the Letters Patent that issued on June 2, 2009, in this application. Failure to include the correct assignee name on the PTOL-85B was inadvertent.

The incorrectly listed Assignees are:

Charles J. Truan, Royal Oak, MI
James Truan, Royal Oak, MI
Joshua Scott, Royal Oak, MI
Paul Mandrik, Clinton Township, MI

The correct Assignee is:

TRYNEX, INC.
23455 Regency Park Drive
Warren, MI 48089

PAGE 2/7 * RCVD AT 4/20/2010 1:19:07 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/7 * DNIS:2738300 * CSID:248 433 7274 * DURATION (mm-ss):01-24

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Accordingly, Applicants hereby request under 37 CFR § 3.81(b) correction of the patent to state the correct name of the assignee .

It is hereby noted that, on June 21, 2005, prior to the time that the PTOL-85 B was filed on April 28, 2008 and before the issuance of the patent, an Assignment was submitted for recordation as set forth in 37 CFR 3.11, which Assignment listed as Assignee TRYNEX, INC. The relevant Reel/Frame numbers of the recorded assignment are: 016718/0627. A copy of the Notice of Recordation of Assignment is attached hereto.

Applicants request that, upon approval of the request for correction, the file be forwarded to the Certificates of Correction Branch for issuance of a Certificate of Correction. A Request for Certificate of Correction is filed concurrently herewith.

Any petition fee under 37 CFR § 3.81(b), the processing fee under 37 CFR 1.17(i), or any other fee due, may be charged to deposit account no. 04-1061. In addition, the fee for the Certificate of Correction may be charged to Deposit Account No. 04-1061.

Respectfully submitted,

William H. Honaker

Date: April 20, 2010

William H. Honaker
Registration No. 31,623

Dickinson Wright, PLLC
38525 Woodward Ave., Ste. 2000
Bloomfield Hills, MI 48304-5092
(248) 433-7381
(248) 433-7274 fax

PAGE 3/7 * RCVD AT 4/20/2010 1:19:07 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/7 * DNIS:2738300 * CSID:248 433 7274 * DURATION (mm-ss):01-24

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Patent No.:	7,540,436	
Inventor:	Truan et al.	Art Unit: 3752
Appln. No.:	11/157,314	Exr. Steven Ganey
Filed:	June 21, 2005	Conf. No. 8593
For:	TRUCK BED MOUNTED SPREADER	

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is requested that a Certificate of Correction be issued to correct an error found in the above-identified patent. Attached hereto is a Certificate of Correction, which indicates the following requested correction:

(73) Assignees: "Charles J. Truan, Royal Oak, MI (US); James Truan, Royal Oak, MI (US); Joshua Scott, Royal Oak, MI (US); Paul Mandrik, Clinton Township, MI (US) " should read – Trynex, Inc., Warren, MI --.

The Commissioner is hereby authorized to charge required fees and any additional fees which may be required or credit any overpayments to Deposit Account No. 04-1061.

Respectfully submitted,
DICKINSON WRIGHT PLLC

William H. Honaker
Reg. No. 31,623

Date April 20, 2010

38525 Woodward Ave., Ste. 2000
Bloomfield Hills, MI 48304-5092
(248) 433-7381

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page _____ of _____

PATENT NO. : 7,540,436

APPLICATION NO.: 11/157,314

ISSUE DATE : June 2, 2009

INVENTOR(S) : Charles J. Truan 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:

(73) Assignees: Charles J. Truan, Royal Oak, MI
James Truan, Royal Oak, MI
Joshua Scott, Royal Oak, MI
Paul Mandrik, Clinton Township, MI

should read

(73) Assignee: TRYNEX, INC., Warren, MI

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Dickinson Wright PLLC
38525 Woodward Avenue, Ste 2000
Bloomfield Hills, MI 48304

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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UNITED STATES PATENT AND TRADEMARK OFFICE 60261-069

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOVEMBER 02, 2005

103030401A

PTAS
THE PINEHURST OFFICE CENTER, SUITE 101
WILLIAM H. HONAKER
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304

WHH

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES DIVISION, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 06/21/2005 REEL/FRAME: 016718/0627
NUMBER OF PAGES: 8

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 60,261-069

ASSIGNOR:
TRUAN, CHARLES J. DOC DATE: 06/07/2005

ASSIGNOR:
TRUAN, JAMES DOC DATE: 06/07/2005

ASSIGNOR:
SCOTT, JOSHUA DOC DATE: 06/07/2005

ASSIGNOR:
MANDRIK, PAUL DOC DATE: 06/07/2005

ASSIGNEE:
TRYNEX, INC.
23455 REGENCY PARK DRIVE
WARREN, MICHIGAN 48089

HOWARD & HOWARD
NOV
RECEIVED

016718/0627 PAGE 2

SERIAL NUMBER: 11157314 FILING DATE: 06/21/2005
PATENT NUMBER: ISSUE DATE:
TITLE: TRUCK BED MOUNTED SPREADER

KIMBERLY WHITE, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

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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P.O. BOX 721120
SAN JOSE CA 95172-1120

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
SCHEUERLEIN, Roy E.	:	
Application No. 11/157,317	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. MAT1P003/MD244	:	FROM RECORD
	:	

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 20, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kevin J. Zilka 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 assignee of the entire interest 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: **SANDISK CORPORATION**
601 McCARTHY BOULEVARD
MILPITAS, CA 95035

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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Intell Corporation
c/o Intellevate, LLC
P.O. Box 52050
Minneapolis, MN 55402

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Benjamin Tsien	:	
Application No. 11/157,321	:	DECISION ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. P21629	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 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 on April 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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MAY 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Cowings et al.	:	DECISION ON PETITION
Application No. 11/157,326	:	TO WITHDRAW
Filed: June 20, 2005	:	FROM RECORD
Attorney Docket No. 6002-02200	:	

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, 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 Blakely Sokoloff Taylor & Zafman LLP, has been revoked by the assignee of the patent application on March 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of	:	
JENSEN	:	
Application No. 11/157,327	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. 003775.P012	:	FROM RECORD
	:	

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, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Sanford Jensen
1425 Bancroft Way
Berkeley, CA 94702

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 09-05

Paper No: __

SMYRSKI LAW GROUP,
A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Mueller, et al.	:	
Application No. 11/157,341	:	DECISION ON PETITION
Filing Date: 20 June, 2005	:	
Attorney Docket No. KLAC0113	:	

This is a decision on the petition styled "A Petition to Accord Filing Date to Utility Application Pursuant to 37 C.F.R. §1.182" filed on 12 July, 2005, improvidently seeking a filing date under the provisions of 37 C.F.R. §1.10, but appropriately considered herein under 37 C.F.R. §1.53, to obtain a filing date for the instant application.

For the reasons set forth below, the instant petition is **DISMISSED**.

BACKGROUND

The instant application was deposited on 20 June, 2005.

On 8 July, 2005, the Office mailed a Notice to of Omitted Items indicating, inter alia, that: "[a] filing date has been accorded to the above-identified nonprovisional application papers," (emphasis supplied) however, it appeared that Figures(s) 1C-E, as described in the specification, had been omitted from the application.

OIPE explained in the Notice that Petitioner could:

- submit a petition and supporting evidence with copies of the omitted items if Petitioner

alleged that the omitted item(s) had been deposited with the application; or

- submit the omitted items and accept the date of submission as the filing date; or
- accept the application in the form the Office indicated it had been deposited without the omitted items.

Petitioner, in fact, did none of the above.

On 12 July, 2005, Petitioner submitted:

- a hand-corrected copy of the filing receipt and requested correction of the priority claim **(Petitioner's attention is directed to the provisions of under 37 C.F.R. §1.78[1] as to**

---

[1] The regulations at 37 C.F.R. §1.78 provide:
§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.
(a)(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:
(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or
(ii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and have paid therein the basic filing fee set forth in § 1.16 within the pendency of the application.
(2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).
(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:
(A) An application for a design patent;
(B) An application filed under 35 U.S.C. 111 (a) before November 29, 2000; or
(C) A nonprovisional application which entered the national stage after compliance with 35U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.
(iii) If the later-filed application is a non-provisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sen-tence(s) following the title.
(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.
(3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending non-provisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:
(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

the proper claim(s) for priority); and

- a petition to obtain a filing date, to which Petitioner attaches:

  –Exhibit A: copies of 12 sheets of drawings, averred to be Figs. 1A through 8 from the parent application to be used in examination of the present application;

(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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
(5)(i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).
(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:
(A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or
(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000. (iii) If the later-filed application is a non-provisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sen-tence(s) following the title. (iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-lan-guage translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application. (6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by: (i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted; (ii) The surcharge set forth in § 1.17(t); and (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section 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. (b) Where two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. (c) If an application or a patent under reexamination and at least one other application naming different inventors are owned by the same person and contain conflicting claims, and there is no statement of record indicating that the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, the Office may require the assignee to state whether the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, and if not, indicate which named inventor is the prior inventor. Even if the claimed inventions were commonly owned, or subject to an obligation of assignment to the same person, at the time the later invention was made, the conflicting claims may be rejected under the doctrine of double patenting in view of such commonly owned or assigned applications or patents under reexamination. [36 FR 7312, Apr. 17, 1971; 49 FR 555, Jan. 4, 1984; paras. (a), (c) & (d), 50 FR 9380, Mar. 7, 1985, effective May 8, 1985; 50 FR 11366, Mar. 21, 1985; para. (a) revised 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; paras. (a)(1) and (a)(2) revised and paras. (a)(3) and (a)(4) added, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; para. (c) revised and para. (d) deleted, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; para. (a) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(3) revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (a)(2), (a)(4), and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Sept. 8, 2000; paras. (a)(2), (a)(3), and (a)(4) revised and paras. (a)(5) and (a)(6) added, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (a) revised, 66 FR 67087, Dec. 28, 2001, effective Dec. 28, 2001; paras. (a)(3)(iii) & (a)(6)(iii) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para (a)(3) revised, 68 FR 70996, Dec. 22, 2003, effective Jan. 21, 2004; paras. (a)(1), (a)(2)(iii), (a)(5)(iii) and (c) revised, 69 FR 56481, Sept. 21, 2004, effective Sept. 21, 2004; para. (a)(4) revised, 70 FR 3880, Jan. 27, 2005, effective Dec. 8, 2004; para.(a)(1)(iii) removed and para. (a)(1)(ii) revised, 70 FR 30360, May 26, 2005, effective July 1, 2005]

–Exhibit B: averred to be a copy of the Notice of Omitted Items;

–Exhibit C: averred to be a copy of the original declaration.

Petitioner either ignores or is unaware of the Office practice as to the use of a receipt card (see: MPEP §503[2]) to demonstrate receipt by the Offices documents/papers alleged to have been transmitted for filing.

Further, a review of the application papers indicates that on page 2 of the Specification, Petitioner set forth an incorporation by reference to Application No. 09/335,673.

This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).)[3] As a matter of expediting prosecution, Petitioner may submit a copy of the

---

[2] 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.)

[3] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

INCORPORATION BY REFERENCE

* * *

parent application as filed with a preliminary amendment and seek entry of that amendment by the Examiner.

No petition is required for that purpose.

CONCLUSION

As discussed above:

- Petitioner's request for a filing date clearly is moot;
- Petitioner has made no showing as to the presence of the omitted item(s) 1C-E as described in the specification on filing; and
- no petition is required if Petitioner properly seeks entry of the omitted item(s) via amendment.

Accordingly, the petition is **dismissed**.

Because the instant petition was not occasioned by an error of the Office, the fee will not be refunded.

This file (Image File Wrapper (IFW)) is released to OIPE for further processing as is necessary, consistent with this decision, before being forwarded for examination in due course.

In a continuation or divisional application, the safe-guard (petition and fee under former 37 C.F.R. 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 C.F.R. 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a "true copy" of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (Emphasis supplied.).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Mueller, et al.	:	
Application No. 11/157,341	:	DECISION ON PETITION
Filing Date: 12 July, 2005	:	
Attorney Docket No. KLAC0113	:	

This is a decision on the petition filed on 30 September, 2005, under 37 C.F.R. §1.53, to obtain a filing date of 12 July, 2005, for the instant application rather than the presently accorded date of 20 June, 2005.

For the reasons set forth below, the instant petition is **GRANTED**.

BACKGROUND

The a portion of the instant application was deposited on 20 June, 2005.

On 8 July, 2005, the Office mailed a Notice to of Omitted Items and indicated therein, *inter alia*, that: "[a] filing date has been accorded to the above-identified nonprovisional application papers," (emphasis supplied) however, it appeared that Figures(s) 1C-E, as described in the specification, had been omitted from the application.

OIPE explained in the Notice that Petitioner could:

- submit a petition and supporting evidence with copies of the omitted items if Petitioner alleged that the omitted item(s) had been deposited with the application; or

- submit the omitted items and accept the date of submission as the filing date; or
- accept the application in the form the Office indicated it had been deposited without the omitted items.

Petitioner's original petition filed on 12 July, 2005, submitted with new drawings and pleaded, *inter alia*, as one under 37 C.F.R. §1.10 was dismissed on 22 September, 2005, with leave to resubmit the petition and clarify Petitioner's intent. Petitioner has done so.

Petitioner seeks to obtain the 12 July, 2005 filing date, at which time Petitioner avers the application was complete and included all pages, figures and claims for priority.

Thereafter, on 3 October, 2005, Petitioner filed a preliminary amendment, but apparently did not file a corrected application data sheet (ADS). (**See: 37 C.F.R. §1.78.**[1])

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[1] The regulations at 37 C.F.R. §1.78 provide:

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a)(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:

(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or

(ii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and have paid therein the basic filing fee set forth in § 1.16 within the pendency of the application.

(2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application for a design patent;

(B) An application filed under 35 U.S.C. 111 (a) before November 29, 2000; or

(C) A nonprovisional application which entered the national stage after compliance with 35U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a non-provisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sen-tence(s) following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

(3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending non-provisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by

CONCLUSION

The petition is **granted**; because the error was not that of the Office, the petition fee will not be refunded.

---

application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:
(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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
(5)(i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).
(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:
(A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or
(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000. (iii) If the later-filed application is a non-provisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sen-tence(s) following the title. (iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-lan-guage translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application. (6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by: (i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted; (ii) The surcharge set forth in § 1.17(t); and (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section 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. (b) Where two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. (c) If an application or a patent under reexamination and at least one other application naming different inventors are owned by the same person and contain conflicting claims, and there is no statement of record indicating that the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, the Office may require the assignee to state whether the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, and if not, indicate which named inventor is the prior inventor. Even if the claimed inventions were commonly owned, or subject to an obligation of assignment to the same person, at the time the later invention was made, the conflicting claims may be rejected under the doctrine of double patenting in view of such commonly owned or assigned applications or patents under reexamination. [36 FR 7312, Apr. 17, 1971; 49 FR 555, Jan. 4, 1984; paras. (a), (c) & (d), 50 FR 9380, Mar. 7, 1985, effective May 8, 1985; 50 FR 11366, Mar. 21, 1985; para. (a) revised 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; paras. (a)(1) and (a)(2) revised and paras. (a)(3) and (a)(4) added, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; para. (c) revised and para. (d) deleted, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; para. (a) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a)(3) revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (a)(2), (a)(4), and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Sept. 8, 2000; paras. (a)(2), (a)(3), and (a)(4) revised and paras. (a)(5) and (a)(6) added, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (a) revised, 66 FR 67087, Dec. 28, 2001, effective Dec. 28, 2001; paras. (a)(3)(iii) & (a)(6)(iii) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para (a)(3) revised, 68 FR 70996, Dec. 22, 2003, effective Jan. 21, 2004; paras. (a)(1), (a)(2)(iii), (a)(5)(iii) and (c) revised, 69 FR 56481, Sept. 21, 2004, effective Sept. 21, 2004; para. (a)(4) revised, 70 FR 3880, Jan. 27, 2005, effective Dec. 8, 2004; para.(a)(1)(iii) removed and para. (a)(1)(ii) revised, 70 FR 30360, May 26, 2005, effective July 1, 2005]

This application is released to OIPE for further processing with a filing date of 12 July, 2005, for the entire application with pages 1 - 39 of the specification (description, claims and abstract) and Figs. 1 - 8 (12 sheets of drawings) using:

- **pages 1 - 39 of specification (description, claims and abstract) deposited on 6 June, 2005; and**
- **Figs. 1 - 8 (12 sheets of drawings) deposited on 12 July, 2005; and further**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 12 July, 2005, and reflecting therein that 39 pages of specification (description, claims and abstract) and Figs. 1 - 8 (12 sheets of drawings) were present on filing.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/26/09

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 11157349 Patent No.: 7378879 B1

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:

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South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: It's approved

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Rexford barnie

SPE Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Addington et al.	:	DECISION ON
Application No. 11/157,350	:	PETITION
Filed: June 21, 2005	:	
Atty Docket No. 200407934-1``	:	

This is a decision on the PETITION TO GRANT FILING DATE UNDER 37 CFR 1.53(e) filed August 15, 2005, requesting that the above-identified application be accorded a filing date of July 1, 2005.

Application papers in the above-identified application were deposited on June 21, 2005. However, on July 8, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.

In reply, applicants timely filed the instant petition. Applicants maintain that 1 page of drawings was filed on June 21, 2005. In support thereof, applicants submit a copy of their return postcard receipt, itemizing "1 pages drawings" among the enclosures, bearing a USPTO date-stamp of June 21, 2005 and assignment of application No. 11/157350, and lacking any notation of non-receipt of any item listed. Included with the

petition is a copy of the 1 page of drawings (figs 1-3), as petitioner maintains they were filed on June 21, 2005.

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. Applicants have shown that the application as filed on June 21, 2005 included the papers identified on the postcard as "1 pages drawings." Thus, it is concluded that the application is entitled to a filing date of June 21, 2005.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 08-2025, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is being forwarded to OIPE for:

- correction of the filing date to June 21, 2005, using the application papers received in the Office on that date, and the 1 page of drawings re-supplied on petition filed August 15, 2005; and

- indication in Office records, as appropriate, that 1 sheet of drawings (figs. 1-3) were present on filing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

SALA, Marcos
Application No. 11/157,359
Filed: June 21, 2005
Attorney Docket No. **5691-007**

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 03, 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 no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MARCOS SALAS**
45 SNODEN LANE
WACHUNG, NJ 07069

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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WILLIAM J. MASON
MACCORD MASON PLLC
POST OFFICE BOX 1489
WRIGHTSVILLE BEACH NC 28480

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of	:	
SALAS, Marcos	:	
Application No. 11/157,359	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO WITHDRAW
Attorney Docket No. **5691-007**	:	FROM RECORD
	:	

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 06, 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 William Mason behalf of all attorneys of record who are associated with customer No. 25184. All attorneys/agents associated with the Customer Number 25184 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 Marcos Salas at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MARCOS SALAS**
45 SNODEN LANE
WACHUNG, NJ 07069

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GERALD L. SMITH
MUELLER AND SMITH, LPA
7700 RIVERS EDGE DRIVE
COLUMBUS OH 43235

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of
V. Peter Werwick
Application No. 11/157,369
Filed: June 21, 2005
Attorney Docket No. BOR 2-034

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This decision is in response to the petition filed February 9, 2006, under 37 CFR 1.47, in response to the Notice to File Missing Parts "Notice" mailed August 4, 2005. The petition is treated under 37 CFR1.47(b).

The petition is **DISMISSED.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the 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, naming V. Peter Werwick as the sole inventor, was filed on June 21, 2005 with an un-executed oath or declaration. Accordingly, on August 4, 2005 , a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. In response, the present petition was filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (5).

As to item (5), petitioner must provide proof that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[1] Petitioners should provide a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

Additionally, it should be pointed out that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 13-4830 will be charged in the amount of $70.00, pursuant to 37 CFR 1.17(g) to make up the difference between that which was due and that which was paid. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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Kimberly Luna
Allegiance Corporation
1430 Waukegan Road
McGaw Park, IL 60085

Mail Date: 04/21/2010

Applicant	: Witold Bauer	: DECISION ON REQUEST FOR
Patent Number	: 7591390	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,383	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1006** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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www.uspto.gov

Fulwider Patton, LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

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JUN 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Bijan Salamat, et. al.	:	
Application No. 11/157,384	:	ON PETITION
Filed: June 20, 2005	:	
Attorney Docket No. HYAIR71381	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 26, 2005. A Notice of Abandonment was mailed on June 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment including changes to the specification, and a terminal disclaimer under 37 CFR 1.321 with the $130 fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on June 28, 2007 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 3683 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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WINSTEAD, PC
P.O. BOX 50784
DALLAS, TX 75201

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OFFICE OF PETITIONS

In re Application of
James M. Tour, et. al.
Application No. 11/157,391
Filed: June 21, 2005
Attorney Docket No. OWLS-10

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on May 26, 2006, to revive the above-identified application. The delay in responding is regretted.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed July 27, 2005. A Notice of Abandonment was mailed on April 3, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The Office acknowledges receipt of $750 for treatment of the present petition, an executed oath/declaration, and a $65 surcharge for the late filing of the oath/declaration. However, petitioner failed to submit the replacement drawings under 37 CFR §§ 1.84 and 1.121, as required by the Notice to File Missing Parts of Non-Provisional Application mailed July 27, 2005. Therefore, revival of the above application cannot occur until replacement drawings have been submitted. A courtesy copy of the Notice mailed July 27, 2005 is enclosed.

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 Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on May 26, 2006 has been accepted and made of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy copy of the Notice to File Missing Parts mailed July 27, 2005.

COPY

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	ATTORNEY DOCKET NUMBER
11/157,391	06/21/2005	James M. Tour	OWLS-10

CONFIRMATION NO. 7894

FORMALITIES LETTER

OC000000016621948

Hugh R. Kress
Suite 1800
5718 Westheimer
Houston, TX 77057

Date Mailed: 07/27/2005

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing. *A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
  Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(f) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper, which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e)). See Figure(s) 1, 4.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Office of Initial Patent Examination (703) 308-1202

PART 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/157,391	06/21/2005	James M. Tour	OWLS-10

CONFIRMATION NO. 7894

OC000000026086551

61060
WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

Date Mailed: 10/01/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WINSTEAD, PC
P.O. BOX 50784
DALLAS, TX 75201

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of
James M. Tour, et. al.
Application No. 11/157,391
Filed: June 21, 2005
Attorney Docket No. OWLS-10

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on November 27, 2007, to revive the above-identified application.

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, if Edward T. Mickelson has no knowledge that the delay was unintentional, he must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, he 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 executed oath/declaration with the $65 surcharge and nine sheets of replacement drawings containing Figures 1-8; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination 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

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OFFICE OF PETITIONS

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

In re Application of	:	
Lawrence R. Foore et al.	:	
Application No. 11/157,392	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO WITHDRAW
Attorney Docket No. 2479.2164-011	:	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 November 22, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on February 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Volpe and Koeing, P.C.**
Dept. ICC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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PERMAN & GREEN, LLP
99 HAWLEY LANE
STRATFORD CT 06614

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OFFICE OF PETITIONS

In re Application of :
Gulbrandsen, et al. :
Application No. 11/157,399 : DECISION
Filed/Deposited: 20 June, 2005 :
Attorney Docket No. 999P012215-US(PAR) :

This is a decision on the petition filed on 2 November, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 29 May, 2009, with reply due under a non-extendable deadline on or before 31 August, 2009.

The application went abandoned by operation of law after midnight 31 August, 2009.

The Office mailed the Notice of Abandonment on 21 September, 2009.

On 2 November, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181, it appears that Petitioner sought to comply with the requirements set forth in the guidance in the

Commentary at MPEP §711.03(c)(I) requiring, *inter alia*, statements by persons with first-hand knowledge—here, Shauna Murphy—when there is no date-stamped receipt card submitted in evidence. A copy of the Issue Fee payment with a certificate of mailing dated 28 August, 2009, was submitted with authorization to charge the Issue Fee to Deposit Account 16-1350, and those fees are charged as authorized.

Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which 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]
>
> ***

In these matters, Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

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]

---

[1] *See*: MPEP §711.03(c) (I)(B).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[4] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have made an appropriate showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered pursuant to 37 C.F.R. §1.181 is **granted** and the 21 September, 2009, Notice of Abandonment is **vacated**.

The instant application is released to the 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.

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).

[4] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Newbould, et al. :
Application No. 11/157,416 :
Filed: June 21, 2005 :
Attorney Docket No. 61019US002 :
For: ARTICLE SUPPORT DEVICE MOUNTABLE WITH STRETCH RELEASING ADHESIVE

ON PETITION

This is a decision on the petition under 37 CFR 1.181,filed April 11, 2006, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed July 15, 2005, which set forth an extendable two (2) month period to submit an executed oath/declaration and a surcharge. The Office has no record of receiving a reply. Therefore, the Office contended that this application became abandoned on September 16, 2005. A Notice of Abandonment was mailed on April 3, 2006.

Petitioners assert that authorization to charge the surcharge and a one month extension of time to petitioners' deposit account and an executed declaration were timely transmitted via facsimile to and received by the Office on September 23, 2005. The Office has no record of receiving these items. However, the copy of the Response to the Notice to File Missing Parts of Nonprovisional Application submitted with the instant petition contains a proper certificate of facsimile transmission citing a September 23, 2005 date of facsimile transmission. The Response states that an executed declaration was transmitted.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioners have supplied persuasive evidence of facsimile transmission on September 23, 2005. In addition, petitioners have submitted a copy of their USPTO Auto-Reply Facsimile Transmission which shows that 7 pages were received in the Office on September 23, 2005. The Received Cover Page printed on the first page of the Auto-Reply Facsimile Transmission is the aforementioned Response to Notice to File Missing Parts of Nonprovisional Application.

The petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Scott A. Meyer	: DECISION ON REQUEST FOR
Patent Number	: 7583998	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,426	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1018** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/26/2010

Applicant	: Yves Termonia	: DECISION ON REQUEST FOR
Patent Number	: 7622404	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/157,433	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **256** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/157,446	06/21/2005	Satoru Ueda		6286

7590 02/13/2008
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER
JUNG, DAVID YIUK

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
02/13/2008	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.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/14/2008 KKING1
06/23/2005 DTESSEM1 00000076 11157446
02 FC:1111 -500.00 OP

Repln. Ref: 02/14/2008 KKING1 0016244400
DA#:121095 Name/Number:11157446
FC: 9204 $500.00 CR

FORM PET651G (Rev. 08/07)

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ANGELO MILANA, DR. ING.
VIA GARIBALDINI 97
REGGIO CALABRIA (CATONA) 89135 IT ITALY

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Angelo Milana	:	
Application No. 11/157,462	:	ON PETITION
Filing: June 21, 2005	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 28, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by the applicant that he is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

In re Application of Kateman :
Application No. 11/157,463 :
Filing Date: June 20, 2005 :
Attorney Docket No. 103240-0010C1 :

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 August 28, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred ninety-four (894) days, not five hundred fifty-one (551) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The 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 regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 04/29/2010

Applicant	: Paul R. Kateman	: DECISION ON REQUEST FOR
Patent Number	: 7640755	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/157,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1115** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

CHARLES G. CALL
20 EAST GOETH ST CH1
CHICAGO, IL 60610

In re Application of
Arianna Bassoli, et al.
Application No. 11/157,464
Filed: June 21, 2005
Attorney Docket No. F-23

ON PETITION

This is a decision in response to the petition, filed August 14, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 3, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 4, 2008. A Notice of Abandonment was mailed on April 7, 2009. On August 14, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2416 for appropriate action by the Examiner in the normal course of business on the reply received August 14, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Gregory Von Winckel	: DECISION ON REQUEST FOR
Patent Number	: 7617081	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,474	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1115** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of Lebrilla et al. Application No. 11/157,478 Filed: June 20, 2005 Attorney Docket No. 02307W-146610US Title: METHODS OF OLIGOSACCHARIDE PROFILING FOR THE DETECTION OF CANCER	:	ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705 (b)" filed October 6, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is at minimum five hundred sixty-one (561) days, not two hundred twenty-six (226) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the

actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petition Attorney
Office of Petitions

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: David L. Sifry	: DECISION ON REQUEST FOR
Patent Number	: 7596571	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **419** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

RICHARD J. BASILLE
ST ONGE STEWART JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

In re Application of
Hubert J. Schlafly
Application No. 11/157,501
Filed: 21 June 2005
For: SYSTEM FOR ONSITE PROGRAM DISTRIBUTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed June 21, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a declaration that Hubert J. Schlafly is over 65 years of age.

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 is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
Citigroup Center, Suite 3800
500 West Madison Street
Chicago, IL 60661-2511

Mail Date: 04/21/2010

Applicant	: Todd J. Itrich	: DECISION ON REQUEST FOR
Patent Number	: 7614139	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **363** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 29 2010

OFFICE OF PETITIONS

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

In re Application of :
Shankar, et al. :
Application No. 11/157,510 : ON APPLICATION FOR
Filed: June 21, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. IM06123US01

This is in response to the LETTER REGADRING PATENT TERM ADJUSTMENT DETERMINATION, filed December 11, 2009, which is properly treated under 37 C.F.R. § 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred fifty-nine (959) days, not two hundred seventy-seven (277) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office is in receipt of the $200.00 fee as set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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KENILWORTH NJ 07033-0530

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OFFICE OF PETITIONS

In re Application of :
Shankar et al :
Application No. 11/157,510 : DECISION ON PETITION
Filed: June 21, 2005 :
Attorney Docket No. IM06123US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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 October 23, 2009. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 24, 2010. A Notice of Abandonment was mailed on February 12, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $1510 issue and publication fees of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for further processing.

Charlema Grant
Petitions Attorney
Office of Petitions

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville NY 11747

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JUN 11 2009

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application Number: 11/157522 :
Filing Date: 06/21/2005 :
Attorney Docket Number: 678-1845 :

ON PETITION

This is a decision on the paper filed on April 28, 2009, which is treated as a petition under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

This application became abandoned on February 22, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on November 21, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on March 16, 2009.

Receipt of the issue and publication fees paid on April 28, 2009 is acknowledged.

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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)).

The application is referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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In re Application of Rahul Khanna, et al. Application No. 11/157,526 Filed: June 21, 2005 Attorney Docket No. 42P21338	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 13, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 5, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 5, 2008, which set a statutory period for reply of three (3) months. On May 13, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on May 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 the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: EDWIN H. TAYLOR
12400 WILSHIRE BOULEVARD, 7TH FL
LOS ANGELES, CA 90025-1026

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Paper No.

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OFFICE OF PETITIONS

Hahn & Voight-Medtronic, Inc. patent applications
1012 14th Street, NW Suite 620
Washington DC 20005

In re Patent No. 7,608,458	: DECISION ON REQUEST FOR
Soykan et al.	: RECONSIDERATION OF
Issue Date: October 27, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/157,549	: and
Filed: June 21, 2005	: NOTICE OF INTENT TO ISSUE
Atty Docket No.: P11348.02-MED-10002US/CIP	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 4, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and fifty-three (1153) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and fifty-three (1153) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and fifty-three (1153) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

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 : 7,608,458 B2

DATED : **October 27, 2009** **DRAFT**

INVENTOR(S) : **Soykan 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 842 days

Delete the phrase "by 842 days" and insert – by 1153 days --

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Hahn & Voight-Medtronic, Inc. patent applications
1012 14th Street, NW Suite 620
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Orhan Soykan	: DECISION ON REQUEST FOR
Patent Number	: 7608458	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1418** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Hahn & Voight-Medtronic, Inc. patent applications
1012 14th Street, NW Suite 620
Washington, DC 20005

Mail Date: 05/18/2010

Applicant : Orhan Soykan
Patent Number : 7608458
Issue Date : 10/27/2009
Application No : 11/157,549
Filed : 06/21/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1464** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/157,553	06/21/2005	Zijian Zheng	M61.12-0937	7646

27366 7590 02/04/2009
WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

EXAMINER
PULLIAM, CHRISTYANN R

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
02/04/2009	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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Christopher L. Holt
WESTMAN, CHAMPLIN & KELLY, P.A.
Suite 1400
900 Second Avenue South
Minneapolis, Minnesota 55402-3319

In re Application of:
Zijian ZHENG et al.
Application No. 11/157,553
Filed: June 21, 2005
For: GENERATION OF A BLENDED CLASSIFICATION MODEL

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition, filed on 07 October 2008, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 18 April 2008 be restarted.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the petition, the petitioner stated that the Office communication mailed 18 April 2008 was never received by applicants and stated applicant's representative only discovered the Office communication from a telephone call made by examiner Pulliam on 02 October 2008. The petitioner supplied a copy of docket record (incoming PTO REC'D mail logs for the months March and April 2008) showing that the Office communication was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Office communication on or about 18 April 2008.

Since the petitioner failed to provide a statement attesting to the fact that a search of the file jacket and docket record indicated that the Office communication was not received, he has not met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Office communication mailed 18 April 2008. To expedite the prosecution of this application, the

undersigned is hereby assuming that the petitioner did search the file jacket and docket record and the petitioner found no record of receiving the Office Action.

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Office communication mailed on 18 April 2008 is hereby reset to run FROM THE DATE OF 02 October 2008.

A review of the application file indicates that a response to the Office communication and a Request for five-month extension of time were filed on 07 October 2008. Since the shortened statutory period has been reset to run from 02 October 2008, the fee ($2350.00) for five-month extension of time is not required. The amount of $2350.00 will be credited to Deposit Account No. 23-1123.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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J. SCOTT DENKO
ANDREWS & KURTH LLP
111 CONGRESS AVE., SUITE 1700
AUSTIN TX 78701

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OFFICE OF PETITIONS

In re Application of	:	
James W. **CADY**	:	
Application No. 11/157,565	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 254-THIN-UNT/AK 158008	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 21, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the driver's license of inventor James Cady, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2841 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of	:	
METCALF, Michael D. et al.	:	
Application No. 11/157,574	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO WITHDRAW
Attorney Docket No. **1160.0001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 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 Nancy Gamburd on behalf of all attorneys of record who are associated with customer No. 24756. 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 Michael Metcalf at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MICHAEL D. METCALF**
22362 GILBERTO
SUITE 120
RANCHO SANTA MARGARITA, CA 92688

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Mail Date: 04/21/2010

Applicant	: Peter G. Jacoves	: DECISION ON REQUEST FOR
Patent Number	: 7653571	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,578	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **814** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of
John Harrison Hull
Application No. 11/157,588
Filed: June 21, 2005
Attorney Docket No. 1-16646

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, December 5, 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 March 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/Response after Non-Final Rejection, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

In addition to receiving a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37CFR 1.137(b), the United States Patent and Trademark Office received a payment of $525 for a three month extension of time on September 8, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Gaofeng Wang, et al.
Application No. 11/157,604
Filed: June 21, 2005
Attorney Docket No. SIARGO0501

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 24, 2007. A Notice of Abandonment was mailed on December 6, 2007.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2855 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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OFFICE OF PETITIONS

In re Application of	:
Paul Whitney et al.	:
Application No. 11/157,605	: DECISION ACCORDING STATUS
Filed: June 21, 2005	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 14356-E (BA4-249)	:

This is in response to the petition filed October 27, 2005 under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on June 21, 2005, without an oath or declaration. Accordingly, on July 25, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration naming Paul Whitney, McLean Sloughter, George Chin, Jr., Olga Anna Kuchar, Katherine E. Johnson and Mary Powers as joint inventors, a late filing surcharge and a request for a one month extension of time were filed. The oath or declaration was only executed by inventors Whitney, Sloughter, Chin Jr., Kuchar and Johnson. The petition argues that joint inventor Powers refuses to sign the oath or declaration and thus by her actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were forwarded to Ms. Powers at her last known "public" address, that calls to the last known telephone number were made, that Ms. Powers has verbally expressed her desire not participate with the filing and prosecution of the above identified application in addition to not being contacted again with respect to these matters. Petitioners have also shown by declaration that Ms. Powers has blocked the petitioners phone number and refused to accept all mail being sent to her address.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 23-0925 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MARY POWERS
P.O. BOX 1879
RICHMOND, WA 99352

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OFFICE OF PETITIONS

In re Application of
Paul Whitney et al.
Application No. 11/157,605
Filed: June 21, 2005
For: SCENARIO REPRESENTATION MANIPULATION METHODS, SCENARIO ANALYSIS DEVICES, ARTICLES OF MANUFACTURE, AND DATA SIGNALS

Dear Ms. Powers:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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WILMINGTON DE 19805

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OFFICE OF PETITIONS

In re Application of :
William J. Borland et al. :
Application No. 11/157,621 :
Filed: June 21, 2005 :
Attorney Docket No. **EL0581 US NA** :

ON PETITION

This is a decision on the petition filed May 11, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on October 6, 2005, for failure to timely reply to the Notice to File Missing Parts, mailed August 5, 2005, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 17, 2006.

The filing of the response to the Notice to File Missing Parts mailed August 5, 2005 is acknowledged. All other requirements having been met , this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SENNIGER POWERS LLP
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17TH FLOOR
ST LOUIS, MO 63102

Mail Date: 04/20/2010

Applicant	: Ho Ping Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7665926	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/157,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
J. Randall Hall	:	
Application No. 11/157,624	:	DECISION ON PETITION
Filed: June 21, 2005	:	
Attorney Docket No. H&S-L-CIP-CON	:	

This is a decision on the "PETITION REGARDING NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION", filed August 4, 2005, to accord the above-identified application a filing date of June 21, 2005, with 4 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on June 21, 2005. However, on July 18, 2005, the Initial Patent Examination Division mailed Applicant a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, Applicant filed the instant petition. Accompanying the petition was a copy of 4 drawing sheets. Applicant maintains that the application as originally filed included 4 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "4 pages of Drawings" as enclosed, bearing a United States Patent and Trademark Office date-stamp of June 21, 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. 08-3150.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of June 21, 2005, using the application papers received in the Office on that date and the 4 pages of drawings as resupplied on petition filed August 4, 2005, and for indication in Office records that 4 sheets of drawings were present on filing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions