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OFFICE OF PETITIONS

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

In re Application of :
Berard et al. :
Application No. 11/198,063 : ON APPLICATION FOR
Filed: August 5, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. I4060/317732 :
(IRC289CIP) :

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED ON NOTICE OF ALLOWANCE" filed April 28, 2009. Applicant requests that the determination of patent term adjustment be corrected from four hundred eighty-three (483) days to eight hundred sixty-seven (867)days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

The request is **DISMISSED**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:

(1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance and with payment of the issue fee. Thus, the application for patent term adjustment was timely filed. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the application for patent term adjustment. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under § 1.18(e). Applicant is not precluded from promptly paying the required fee for consideration of this application for patent term adjustment. Applicant should call the undersigned upon submission of such fee.

However, with respect to Office delay in taking more than 3 years to issue the patent, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office of Data Management has been advised of this decision and directed to go forward with processing of this application into a patent.

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

Christina L. Donnell

Christina Donnell
Senior Petitions Attorney
Office of Petitions

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SUITE 2800
ATLANTA GA 30309

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JUL 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,550,516	:
Issued: June 23, 2009	: DECISION ON REQUEST
Application No. : 11/198,063	: FOR RECONSIDERATION OF
Filed : August 5, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No. I4060/317732	:
(IRC289CIP)	:

This is a decision on the "Communication Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance", filed June 3, 2009, which is being treated as a petition under 37 CFR 1.705(d).[1] Patentees request that the patent term adjustment determination for the above-identified patent be corrected from four hundred eighty-three (483) days to eight hundred sixty-seven (867) days.

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

On June 23, 2009, the above-identified application matured into US Patent No. 7,550,516 with a revised patent term adjustment of 483 days. This request for reconsideration of patent term adjustment is timely filed.

Patentees argue that the determination of 483 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). Specifically, patentees state:

> The determination of the total PTA of 483 days is erroneous because the US Patent & Trademark Office (PTO)

[1] The Office notes that 37 CFR 1.705(d) provides for revisions of the patent term adjustment when the revision is necessitated by events occurring after the mailing of the Notice of Allowance.

> PTA calculator failed to account for two separate Patent Office delays. The two PTO delay periods should have their days added together in accordance with the reasoning in *Wyeth et a. v. Dudas* No. 07-1492 (D.D.C. September 30, 3008). The number of PTA credits of 519 days for PTO delay under 35 USC § 154(b)(1)(A) and 37 CFR § 1.702(a)(1)…is correct but it only accounts for one of the delays of the PTO. The other delay warrants a PTA credit of 384 days for PTO delay under 35 USC § 154(1)(B) and 37 CFR § 1.702(b). Because these two periods do not overlap, Applicants are entitled to the sum of these two periods. Accordingly, a total PTA credit of 903 days (i.e., 519 + 384) is appropriate based upon PTO delay.

Petition, 04/28/09, pps. 1-2

Initially, the Office notes that patentees filed the present petition prior to the date the patent issued. Therefore, patentees base their argument on a projected patent issue date of August 25, 2009, 3 years and 384 days after the filing date of the application. However, the instant patent issued on June 23, 2009, 3 years and 322 days, after having been filed under 35 U.S.C. 111(a) on August 5, 2005. For this reason, the Office will use the correct period of 322 days when referring to the Three Year Delay in this decision.

Patentees assert that in addition to this Three Year Delay (322 days), they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 519 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) pursuant to 37 CFR 1.702(a)(1). A restriction requirement was mailed on March 7, 2008, 14 months and 519 days after the application was filed on August 5, 2005.

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

period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 36 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 (322 days) and the period of Examination Delay (519 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. Patentees submit that the total period of adjustment for Office delay is the sum of the period of Three Year Delay (322 days) and the period of Examination Delay (519 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 805 days (322 + 519 reduced by 0 overlap - 36 days (applicant delay)).

The Office notes that as of the issuance of the patent on June 23, 2009, the application was pending 3 years and 322 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 322 days is correct. At issue is whether patentees should accrue 322 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 519 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 322 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of

> adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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

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

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

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

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

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

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 5, 2005, to the date the patent issued on June 23, 2009. Prior to the issuance of the patent, 519 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 322 days for Office delay in issuing the patent overlap with the 519 days of Office delay. During that time, the issuance of the patent was delayed by 519 days, not 519 + 322 days. The Office took 14 months and 519 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 519 days of Office delay and the 36 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 322 days. The Office did not delay 519 days and then an additional 322 days. Accordingly, 519 days of patent term adjustment (not 519 and 322 days) was properly entered because the period of delay of 322 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 519 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 519 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 322 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

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

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by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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 T. Donnell

Christina Donnell
Senior Petitions Attorney
Office of Petitions

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CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: John E. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7620231	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **906** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 05-01-09

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/198068 Patent No.: 7462688

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

- [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 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

6-5-09

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Patent No. : 7,582,629
Ser. No. : 11/198,070
Inventor(s) : Ramin Farjadrad, et. al.
Issued : May 5, 2009

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.

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 is hereby denied.

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Sawyer Law Group
2465 E. Bayshore Rd., Suite 406
Palo Altao, CA 94303

ej

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BOZICEVIC, FIELD & FRANCIS LLP
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OFFICE OF PETITIONS

In re Application of	:	
Bryan Oronsky, et al.	:	
Application No. 11/198,071	:	DECISION ON PETITION
Filed: August 4, 2005	:	TO WITHDRAW
Attorney Docket No. NSKY-013	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 15, 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 July 16, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID W. COLLINS
INTELLECTUAL PROPERTY LAW
512 E. WHITEHOUSE CANYON ROAD
SUITE 100
GREEN VALLEY, AZ 85614

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THE PROCTER & GAMBLE COMPANY
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WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Flohr et al.	:	DECISION ON PETITION TO
Application Number: 11/198081	:	WITHDRAW HOLDING OF
Filing Date: 08/05/2005	:	ABANDONMENT
Attorney Docket Number: CM2893Q	:	

This is a decision on the petition filed on October 23, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on April 10, 2007. Notice of Abandonment was mailed on October 18, 2007.

Petitioners assert that an amendment was timely filed. In support, petitioner has supplied a copy of an amendment, the first page of which contains a cover sheet including a Certificate of Facsimile Transmission dated July 2, 2007.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

The petition lacks item (2) above. Petitioners should supply a statement by the individual who signed the Certificate of Transmission.

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

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.181(f).

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OFFICE OF PETITIONS

In re Application of	:	
Flohr et al.	:	
Application Number: 11/198081	:	ON PETITION
Filing Date: 08/05/2005	:	
Attorney Docket Number: CM2893Q	:	

This is a decision on the petition filed on December 14, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on July 11, 2007, for failure to file a response to the non-final Office action mailed on April 10, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 18, 2007. On October 23, 2007, a petition to withdraw the holding of abandonment was filed. On November 29, 2007, the petition was dismissed.

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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 in response to the non-final Office action is acknowledged.

The petition fee will be charged to counsel's deposit account, as authorized in the present petition.

The application is referred to Technology Center Art Unit 3761 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Andreas Flohr	: DECISION ON REQUEST FOR
Patent Number	: 7655830	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **416** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Andreas Flohr	: DECISION ON REQUEST FOR
Patent Number	: 7655830	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **416** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Ward & Olivo
382 Springfield Ave.
Suite 305
Summit, NJ 07901

Mail Date: 04/21/2010

Applicant	: Kerry Veenstra	: DECISION ON REQUEST FOR
Patent Number	: 7593499	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **988** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LAW OFFICE OF SANFORD J ASMAN
570 VININGTON CT
ATLANTA GA 30350-5710

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FEB 01 2010

In re Patent No. 7,464,792 :
Issue Date: December 16, 2008 :
Application No. 11/198,105 : DECISION ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. 170112-1011 :

This is decision is in response to the petition under 37 CFR 1.182 for a duplicate letters patent, filed January 15, 2010. As petitioners' request is predicated on an assertion that the original patent was "lost in the mail," this matter is being treated under 37 CFR 1.181 (no fee).

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was "lost in the mail."

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

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office communication 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 communication and the due date for the response. Practitioner must state that the Office communication 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 communication was not received. A copy of the record(s) used by the practitioner where the non-received Office communication 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 communication should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office communication, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. 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 instant petition does not establish non-receipt of the Letters Patent in compliance with the procedures set forth at MPEP 711.03(c). Thus, it cannot be found that practitioner's docketing system is sufficiently reliable.

Any renewed petition must establish non-receipt of the Letters Patent as set forth at MPEP 711.03(c).

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LAW OFFICE OF SANFORD J ASMAN
570 VININGTON CT
ATLANTA GA 30350-5710

In re Patent No. 7,464,792 :
Issue Date: December 16, 2008 :
Application No. 11/198,105 : DECISION ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. 170112-1011 :

This is a decision on the petition under 37 CFR 1.182, filed January 15, 2010, requesting issuance of duplicate Letters Patent for the above-identified patent. The decision mailed February 1, 2010 is VACATED.

The petition is **GRANTED**.

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

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 756-1556.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, Randolph Square, 9th Floor, Room D30-B (Fax No. (571) 270-9753)

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

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OFFICE OF PETITIONS

In re Application of :
Ikezawa :
Application No. 11/198,120 : ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. TI-38898 :
For: MULTIPHASED TRIANGULAR WAVE OSCILLATING CIRCUIT AND SWITCHING REGULATOR USING IT

This is a decision on the petition under 37 CFR 1.181, filed August 8, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed August 29, 2005, which set forth an extendable two (2) month period for reply. The Office contended that this application became abandoned on October 30, 2005 for failure to respond. A Notice of Abandonment was mailed on May 9, 2006.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and a reply to the August 29, 2005 Notice were timely received in the Office on January 9, 2006. The undersigned finds this argument completely convincing, as these documents are present in the application file. The Office had authorization to charge a three month extension of time fee on January 9, 2006. Therefore, the three month extension of time and reply to the August 29, 2006 were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the May 9, 2006 Notice of Abandonment is **vacated**.

Regarding fees, no petition fee has been or will be charged in connection with this matter. The three month extension of time filed on January 9, 2006 will be charged to deposit account no. 20-0668.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 1 4 2010

In re Application of	:	DECISION ON PETITION
Scott Earl McNeil et al	:	
NO.: 11/198152	:	
FILED: August 8, 2005	:	
FOR: METHOD AND SYSTEM FOR COUNTERING LASER TECHNOLOGY		

This is a decision on the request filed August 8, 2005 to waive the requirements of 37 CFR 1.84(a) so as to permit the application to include a color drawing. Applicant has shown that the use of color is an essential element in the representation of the drawing.

Petition Granted.

Thomas H. Tarcza
SPE, Art Unit 3662
571-272-6979

29 SEP 2005

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P.O. Box 1450
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Lacasse and Associates, LLC
1725 Duke Street, Suite 650
Alexandria, VA 22314

In re Application of
BJORK, Svante
U.S. Application No.: 11/198,160
Filing Date: 08 August 2005
Attorney's Docket No.: 119644 PA/MKA
For: ARRANGEMENT FOR SEPARATION OF PARTICLES, AND A SEPARATION METHOD IN CONNECTION WITH A PROCESS FOR MANUFACTURING POWER CABLES

DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This decision is issued in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 08 August 2005 with respect to international application PCT/SE04/00132.

BACKGROUND

International application PCT/SE04/00132 became abandoned as to the United States under 35 U.S.C. 371(d) at midnight on 03 August 2005 for failure to pay the basic national fee.

On 08 August 2005, applicant filed, *inter alia*: a transmittal letter for a patent application under 37 CFR 1.53; a specification including claims, abstract, and drawings; a preliminary amendment; and a petition and fee to revive international application PCT/SE04/00132 under 37 CFR 1.137(b). The petition seeks to revive PCT/SE04/00132 for the purpose of establishing continuity between the international application and the present application.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (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 required pursuant to 37 CFR 1.137(c). Items (2), (3) and (4) have been satisfied.

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

> [g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

The filing of a continuation application under 35 U.S.C. 111(a) is acceptable as the required reply under 37 CFR 1.137(b). See MPEP § 711.03(c)(II)(A). However, the instant application is not a continuation of PCT/SE04/00132. The first sentence of the specification has not been amended to indicate that this application is "a continuation of PCT/SE04/00132 filed 02 February 2004." Based on the above, the instant application is not considered a continuation of PCT/SE04/00132. Until continuity is properly claimed under 37 CFR 1.78, applicant has not filed the "required reply" necessary to satisfy item (1) of a grantable petition to revive the international application.

CONCLUSION

The petition for revival is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition For Revival Under 37 CFR 1.137(b)" and include the remaining materials required for a grantable petition, that is, the materials required under 37 CFR 1.78 to effectively make the present application a continuation of PCT/SE04/00132.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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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10 JAN 2006

Lacasse and Associates, LLC
1725 Duke Street, Suite 650
Alexandria, VA 22314

In re Application of BJORK, Svante U.S. Application No.: 11/198,160 Filing Date: 08 August 2005 Attorney's Docket No.: 119644 PA/MKA For: ARRANGEMENT FOR SEPARATION OF PARTICLES, AND A SEPARATION METHOD IN CONNECTION WITH A PROCESS FOR MANUFACTURING POWER CABLES	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This decision is issued in response to applicant's "Renewed Petition For Revival Under 37 CFR 1.137(b)" filed on 20 October 2005 with respect to international application PCT/SE04/00132.

BACKGROUND

International application PCT/SE04/00132 became abandoned as to the United States under 35 U.S.C. 371(d) at midnight on 03 August 2005 for failure to pay the basic national fee.

On 08 August 2005, applicant filed, *inter alia*: a transmittal letter for a patent application under 37 CFR 1.53; a specification including claims, abstract, and drawings; a preliminary amendment; and a petition and fee to revive international application PCT/SE04/00132 under 37 CFR 1.137(b). In a decision dated 29 September 2005, applicant's petition under 37 CFR 1.137(b) was dismissed without prejudice.

On 20 October 2005, applicant filed the present renewed petition under 37 CFR 1.137(b). The petition seeks to revive PCT/SE04/00132 for the purpose of establishing continuity between the international application and the present application.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (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 required pursuant to 37 CFR 1.137(c).

Items (1), (2), (3) and (4) have been satisfied. The petition is accompanied by the required reference to the prior filed application.[1] The fee has been paid. The required statement has been made. Accordingly, the renewed petition under 37 CFR 1.137(b) is granted.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.137(b) is **GRANTED**.

International application PCT/SE04/00132 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 in favor of the continuing application number 11/198,160.

Any inquiries concerning this decision should be directed to Attorney-Advisor, Anthony Smith at the telephone number listed below.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

[1]It is noted, however, that the amendment to the specification filed 20 October 2005 improperly incorporates by reference PCT/SE04/00132. See Manual of Patent Examining Procedure, section 201.11, page 200-67, which states "[i]f an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment would not be proper. When a benefit claim 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 unless an incorporation by reference statement of the prior application was presented upon filing fo the application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C 1980)." Accordingly, applicants should file an amendment deleting the incorporation by reference statement.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080903

DATE : April 01, 2008

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 7301440

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:

OK to enter.

/DANIEL WU/
Supervisory Patent Examiner.Art Unit 2612

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

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OFFICE OF PETITIONS

In re Application of :
Christophe J. Chevallier :
Application No. 11/198,200 : ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. 400.037US05 :

This is a decision on the petition, filed November 13, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Allowability, mailed July 3, 2006, required the submission of corrected drawings on or before October 3, 2006. This application became abandoned October 4, 2006. Accordingly, a Notice of Abandonment was mailed November 2, 2006.

This application is being forwarded to the Publishing Division for review of the drawings shown as having been received in the PTO on November 13, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

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

(2) the petition fee required by 37 CFR 1.17(l);

(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

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VIA MERAVIGLI, 16
MILAN 20123 IT ITALY

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of
Sergio Zambelli et al
Application No.11/198,238
Filed: August 8, 2005
Attorney Docket No. 40613/GM/Ip

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed March 4, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3633 for appropriate action by the Examiner in the normal course of business on the reply received December 17, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of:	:	
GUO, Hui	:	
Application No.: 11/198,254	:	DECISION APPROVING
Filed: August 5, 2005	:	WITHDRAWAL OF ATTORNEY
Attorney Docket No.: 9314-122	:	

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE LAW OFFICE OF JESSICA COSTA, PC
P.O. BOX 460
CROZET VA 22932-0460

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Ronald J. **BARNETT** :
Application No. 11/198,257 : DECISION ON PETITION
Filed: August 6, 2005 :
Attorney Docket No. 3020-109 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 17, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned 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 $720 and Publication Fee of $300; (2) the petition fee of $770; and (3) the required statement of unintentional delay.

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

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

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

Thurman Page
Petitions Examiner
Office of Petitions

cc : JESSICA COSTA
P.O. BOX 311
LEXINGTON, MA 02420

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/26/2010

Applicant	: James Doyle	: DECISION ON REQUEST FOR
Patent Number	: 7628608	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/198,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 LAW OFFICE OF JESSICA COSTA, PC
P.O. BOX 460
CROZET, VA 22932-0460

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AUG 19 2008

In re Application of	:	
Barnett, Ronald J.	:	
Application No. 11/198,285	:	ON PETITION
Filed: August 6, 2005	:	
Attorney Docket No. 3020-110	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

The instant application matured into Patent No. 7,304,369 on December 4, 2007.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Chandra Mouli	: DECISION ON REQUEST FOR
Patent Number	: 7585707	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **273** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/198,298	08/08/2005	Lin Cheng	70034.0010US01	8500

24728 7590 07/23/2010
MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

EXAMINER
SKYLES, TIFNEY L

ART UNIT	PAPER NUMBER
2814	

NOTIFICATION DATE	DELIVERY MODE
07/23/2010	ELECTRONIC

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

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

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

ipdocket@mmmlaw.com
jxs@mmmlaw.com
pwang@mmmlaw.com

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MORRIS, MANNING & MARTIN, LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

In re Application of: Cheng et al Serial No.: 11/198.298 Filed: August 8, 2005 For: Vertical channel junction field effect transistors having buried gates and methods of making	DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A review of the file record reveals that a Final Office action was mailed on July 17, 2009, setting an extendable shortened statutory period of 3 months from the date of its mailing for reply. A Notice of Appeal with appropriate extension of time was filed on January 15, 2010. The application was held abandoned and a Notice of Abandonment was mailed on July 9, 2010.

The Notice of Abandonment mailed on July 9, 2010 was mailed in error and is hereby vacated and the holding of abandonment is withdrawn. Inconvenience to the applicant is regretted.

An Appeal Brief and requisite fee are due within two months of the date of the notice of appeal of January 15, 2010 pursuant to 37 CFR § 41.37(a). Extensions of this time are governed by 37 CFR § 1.136.

Any inquiry regarding this decision should be directed to Wael Fahmy, Supervisory Patent Examiner, Art Unit 2814, at (571) 272-1705.

Edward Lefkowitz, Acting TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Thomas P. Liniak
Berenato, White, Stavish
6550 Rock Spring Drive
Suite 240
Bethesda, MD 20817

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Shigeaki Matakeyama	:	
Application No. 11/198,321	:	DECISION ON PETITION
Filed: August 8, 2005	:	TO WITHDRAW
Attorney Docket No. 8339.004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

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

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Chul Chung
Application No. 11/198,356
Filed: August 8, 2005
For: **INTEGRATED MULTIMEDIA SIGNAL PROCESSING SYSTEM USING CENTRALIZED PROCESSING OF SIGNALS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 16, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS, NY 10606

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Ronald Miles
Application No. 11/198,370
Filed: August 5, 2005
Attorney Docket No: **SUNY RB-186**

: DECISION GRANTING PETITION

This is a decision on the petition, filed April 4, 2007, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on August 2, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is December 27, 2007 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $750.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2615 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/198,370	08/05/2005	Ronald Miles	SUNY RB-186

CONFIRMATION NO. 1005

10037
MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS, NY 10606

Date Mailed: 09/17/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/27/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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

In re Application of:
CARROLL, WILLIAM J.
Serial No. 11/198,386
Filed: Aug. 8, 2005
Docket: 000309-00077
Title: SWITCHABLE AND PROGRAMMABLE ELECTRODE CONFIGURATION

6/30/08

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Jun. 25, 2008 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Jun. 6, 2008.

The petition is **granted.**

It is noted that the record does not show claim 5 was amended in the amendment of Feb. 7, 2008. Therefore, the rejection of at least claim 5 under 35 U.S.C. 103(a) as unpatentable over Wingrove (U.S. Pat. 5,540,735) was not necessitated by any amendment filed. As such, the finality of the Office actions issued on Jun. 6, 2008 is premature and thus the finality of the action is hereby withdrawn. The period to respond to the last Office action of Jun. 6, 2008 remains unchanged. Since the finality is being withdrawn, any amendment responding to the Office action dated Jun. 6, 2008 will be treated as a 37 CFR § 1.111 amendment.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action of Jun. 6, 2008 is hereby withdrawn.

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

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MUELLER AND SMITH, LPA
MUELLER-SMITH BUILDING
7700 RIVERS EDGE DRIVE
COLUMBUS OH 43235

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of:
Smyser et al.
Application No. 11/198,399
Filed: August 8, 2005
For: ISOMETRIC SYSTEM METHOD AND APPARATUS

: ON PETITION

This application has been referred to this office due to the communication filed December 19, 2005, by or on behalf of MD Systems, Inc. ("MDS") requesting under 37 CFR 1.181 that the USPTO "strike" this application as it was allegedly not filed by or on behalf of the named inventors, or in the alternative, take other appropriate action, which is being treated as a request under 37 CFR 1.181 for clarification as to: (1) counsel of record, (2) the proper correspondence address of record.

So construed, the petition is **granted** to the extent indicated below.

The USPTO recognition of CardioGrip IPH, Inc. ("CGIPH)as the alleged assignee-intervenor is **vacated** as erroneous. The unfortunate "revocation and appointment" of a power of attorney by CGIPH as the alleged assignee-intervenor to counsel associated with customer no 37,752: Corinne Pouliquen, Reg. No. 35753, and Gianna Julian-Arnold, registration no. 36358, of Epstein Becker & Green, P.C., at 1227 25th Street, N.W. 7th Floor Washington, DC 20037is **vacated**. The previous power of attorney to: Gerald I. Smith, Reg No. 22,009; Jerry K.. Mueller Reg No. 27,576, and Diane Burke, Reg. No. 47525 is **restored** and the correspondence address is **reinstated** to that given above.

The instant application was filed August 8, 2005, naming Smyser, Wiley, and Harris as joint inventors. The papers as filed, included a preliminary amendment that amended the first sentence of the specification to claim benefit (as a continuation) of prior non provisional application No. 10/268,363 filed October 10, 2002, which in turn, claimed benefit of provisional application No. 60/330,265 filed October 18, 2001. The specification, drawings, and claims were provided by way of a photocopy of the Pre Grant Publication No. 2003/0093012A1 (on May 13, 2003) of prior non provisional application 10/268,363. Non provisional application No. 10/268,363 issued as U.S. Patent No. 6,962,569 on November 8, 2005.

The combined declaration and power of attorney present on filing was a photocopy of that originally filed in prior non provisional application No. 10/268,363, and in which the 3 named inventors gave power of attorney to: Gerald I. Smith, Reg No. 22,009; Jerry K. Mueller Reg No. 27,576, and Diane Burke, Reg. No. 47525 at the above-noted address. However, the papers also contained a certification under 37 CFR 3.73(b), wherein Mr. Steven Wood, an allegedly empowered official of the putative assignee CGIPH, sought to intervene and revoke all previous powers of attorney and appoint as counsel of record the practitioners associated with customer No. 37,752: Corinne Pouliquen, Reg. No. 35753, and Gianna Julian-Arnold, registration no. 36358, of Epstein Becker & Green, P.C., at 1227 25th Street, N.W. 7th Floor, Washington, DC 20037.

However, the 3.73(b) certification is conspicuously devoid of either the required indication where the chain of title is recorded–by reel and frame-- at the USPTO, or of any accompanying assignment(s). Indeed, the certification is contains the following notation: "Documents evidencing ownership will be forthcoming."

Since CFR 3.73(c)(1) requires that establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action, the 3.73(b) certification filed on behalf of CGIPH was, on its face, and still remains, fatally defective. CGIPH has not established it is the assignee of the entire interest for any purpose, including intervention per 37 CFR 3.73(b) and MPEP 324.

CGIPH and its privies are advised that any further attempts to interfere in this application or redirect correspondence would be an intrusion not authorized by the rules of practice.

Since this application is a continuation of non provisional application no. 10/268,363 whose conveyance to the assignee of the entire interest is MDS was recorded at reel 13406, frame 41, and such assignment carries to this application, MDS could intervene in this application within the meaning of 37 CFR 3.73(b) and MPEP 324. In the absence of such intervention, then the power of attorney will continue to come by way of the named inventors. The 3,73(b) certification filed by MDS with the instant petition did not also contain a revocation and appointment of power of attorney to counsel who filed the petition..

While the petition is asserted to have been filed on behalf of MDS, as counsl who filed the petition has not been given a power by either the named inventors nor MDS, he is not in a strong position to ask the USPTO to take any action in this matter other than provide the information given above. Accordingly the request to "strike" this application will not be further entertained, particularly as the rules of practice no longer provide for such action. However, a similar result can be obtained if counsel of record, or MDS, files an express abandonment.

A courtesy copy of this decision is also being mailed to counsel (not of record) who filed the petition. The USPTO will not undertake dual correspondence.

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

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

cc:

Christopher Elswick [for MDS)
THOMPSON HINE LLP
2000 COURTHOUSE PLAZA NE
10 WEST SECOND STREET
DAYTON OHIO 45402

cc:

EPSTEIN BECKER & GREEN, P.C. [for CGIH]
1227 25TH STREET, N.W. 7TH FLOOR
WASHINGTON DC 20037

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In re Application of
SMYSER, Michael A.
Application No. 11/198,399
Filed: August 08, 2005
Attorney Docket No. **51656.6CON2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 05, 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, (attorney no longer represents the assignee and conflict of interest) does not meet the conditions set forth in 37 CFR 10.40.

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MICHAEL A. SMYSER**
PRESIDENT OF MD SYSTEMS, INC.
P.O. BOX 1647
WESTERVILLE, OH 43086

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/198,403	08/08/2005	Hiromi Ito	BJS-159-95	8364

23117 7590 01/07/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
WESSENDORF, TERESA D

ART UNIT	PAPER NUMBER
1639	

MAIL DATE	DELIVERY MODE
01/07/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 0 7 2008

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

B.J. Sadoff
NIXON AND VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203-1808

In re Application of	:
ITO et al	:Decision on Petition
Serial No.: 11/198,403	:
Filed : 8 August 2005	:
Attorney Docket No.: BJS-159-95	:

This letter is in response to the Petition filed on 13 November 2008 requesting for withdrawal of the restriction requirement mailed 15 October 2008.

BACKGROUND

On 24 September 2007, the examiner issued a restriction requirement.

On 24 March 2008, applicants elected with traverse, Group I, and the combination of species produced by the method as set forth on page 38 of the specification.

On 5 June 2008, the Office mailed a notice of non-responsive amendment (bona fide) requesting that applicants indicate which claims read upon the elected species.

On 7 July 2008, applicants replied with an indication that claims 1-11 read upon the elected species.

On 15 October 2008, the Office mailed a notice of non-responsiveness requesting that applicants indicate an election of a single species for search purposes only.

On 13 November 2008, applicants filed this petition.

DISCUSSION

Applicants' petition and the file history have been considered carefully.

37 CFR 1.143 and 1.144 discuss the processes of reconsideration and petition.

1.143 Reconsideration of requirement.

If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

§ 1.144 Petition from requirement for restriction.

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

In this instance, the petition has been filed before the restriction requirement was repeated or made final. Also, the petition was filed before a request to ask the examiner to reconsider the election of species requirement for search purposes only made 15 October 2008.

DECISION

For these reasons, the petition filed on 13 November 2008 is **DISMISSED** as premature.

Upon reconsideration, the Office has hereby vacated the election of species requirement mailed 15 October 2008. A new Office action, which may be restriction requirement and/or an election of species requirement will be forthcoming shortly.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREETM SUITE 4000
CHARLOTTE, NC 282280-4000

In re Application of	:	
Matthew SOMMERFIELD	:	
Application No. 11/198,407	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 048782/281598	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, Alston & Bird no longer represents Humanscale Corporation, does not meet any of the conditions set forth in 37 CFR 10.40, since Assignee has not properly intervened.

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

There is an outstanding Office action mailed August 6, 2007 that requires a reply by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HUMANSCALE CORP.
ATTN : PATRICK J. HOEFFNER, ESQ.
11 EAST 26TH STREET
8TH FLOOR
NEW YORK, NY 10010

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

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FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Matthew SOMMERFIELD	:	
Application No. 11/198,407	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 048782/281598	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Walter Scott on behalf of all attorneys/agents of record associated with Customer Number 00826.

All attorneys/agents 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.

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: HUMANSCALE CORP.
ATTN : PATRICK J. HOEFFNER, ESQ.
11 EAST 26TH STREET
8TH FLOOR
NEW YORK, NY 10010

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
11/198,407	08/05/2005	Matthew Sommerfield	048782/281598

CONFIRMATION NO. 8368

POWER OF ATTORNEY NOTICE

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

OC000000028118658

Date Mailed: 02/05/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/20/2007.

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

/dcgoodwyn/

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

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United States Patent and Trademark Office
P.O. Box 1450
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John Gladstone Mills, III
Bulding 2272/Suite 257
47123 Buse Road
Patuxent River, MD 20670-1547

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SEP 2 0 2005

Director's Office
Group 3700

In re Application of
Kerry Keith Kelley
Serial No. 11/198,415
Filed: August 4, 2005

DECISION ON PETITION TO MAKE SPECIAL

For: WIRELESS BLADE MONITORING SYSTEM

Applicant's petition, filed August 17, 2005, seeks to have this application made special based upon the Environmental Quality Program.

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(V) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 9/19/05

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JUL 17 2006
OFFICE OF PETITIONS

KEELING PATENTS AND TRADEMARKS
3310 KATY FREEWAY, SUITE 100
HOUSTON, TX 77007

In re Application of :
Sandow : DECISION ON PETITION
Application No. 11/198,420 :
Filed: August 5, 2005 :
Docket No.: 122.008 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 19, 2006.

This application was held abandoned November 1, 2005 for failure to timely submit a proper reply to the Office communication mailed August 31, 2005. Notice of Abandonment was mailed May 9, 2006.

Petitioner asserts non-receipt of the Office communication mailed August 31, 2005.

In the absence of any irregularity in the mailing of the Office communication, 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.

In support of the petition, petitioner has provided a copy of the docket record where the non-final Office action would have been entered had it been received along with a statement from petitioner that a search of the docket record and file jacket indicated that the non-final Office action was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

No fee is due in connection with this matter. Petitioner may request a refund of the $250.00 petition fee submitted herewith by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AJIT SINGH GILL
4169 BENNION ROAD
SALT LAKE CITY, UT 84119

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OFFICE OF PETITIONS

In re Application of	:	
Ajit Singh Gill	:	
Application No. 11/198,424	:	DECISION ON PETITION
Filed: August 4, 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 August 4, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3746 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC - 5 2005

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

BELL, BOYD, & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

In re Application of	:	
Gholam A. Peyman	:	
Serial No.: 11/198,429	:	PETITION TO MAKE SPECIAL
Filed: 05 August 2005	:	
Attorney Docket No.: 115588-61	:	

This is in response to applicant's petition filed on 05 August 2005, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of 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 by any questions with regard to this letter please contact Marianne Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0512 or by facsimile transmission to the general Office facsimile number.

Marianne Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEE HONG DEGERMAN KANG & WAIMEY
660 S. FIGUEROA STREET, SUITE 2300
LOS ANGELES, CA 90017

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OFFICE OF PETITIONS

In re Application of :
Myeong-Cheol Kim :
Application No. 11/198,442 :
Filed: August 5, 2005 :
Attorney Docket No. 2101-3163

ON PETITION

This is a decision on the petition, filed October 13, 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 September 29, 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 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Stephen C. Kaufman
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights NY 10598

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of	:
Berger, et al.	:
Application No. 11/198,466	: DECISION ACCORDING STATUS
Filed: August 5, 2005	: UNDER 37 CFR 1.47(a)
Attorney Docket No. IL920050029US1	:
For: AUTOMATED MIGRATION OF ANALOG AND MIXED-SIGNAL VLSI DESIGN	:

This is in response to the petition under 37 CFR 1.47(a), filed October 21, 2005 (certificate of mailing October 19, 2005).

The petition under 37 CFR 1.47(a) is granted.

Petitioners have shown that the non-signing inventor, Oren Shlomo, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, in his declaration/statement of facts, Attorney Yoav Alkalay states that the inventor was mailed the application papers, but refused to sign the formal documents upon receipt and failed to respond to the request that he sign the enclosed declaration.

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 Technology Center GAU 1753 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

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United States Patent and Trademark Office
P.O. Box 1450
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OREN SHLOMO
52/6 HaAlon St.
Nesher 36811
Israel

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OFFICE OF PETITIONS

In re Application of
Berger, et al.
Application No. 11/198,466
Filed: August 5, 2005
Attorney Docket No. IL920050029US1
For: AUTOMATED MIGRATION OF ANALOG AND MIXED-SIGNAL VLSI DESIGN

LETTER

Dear Mr. Shlomo:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Stephen C. Kaufman
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights NY 10598

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Stephen C. Kaufman
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

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MAY 19 2008

In re Application of	:	
Israel Berger et al.	:	
Application No. 11/198,466	:	DECISION ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. IL 920050029US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 28, 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 18, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 18, 2007. Accordingly, the date of abandonment of this application is December 19, 2007. A Notice of Abandonment was mailed on February 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 payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540, 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.

Andrea Smith
Petitions Examiner
Office of Petitions

OIPE IAP88
DEC 28 2007
PATENT & TRADEMARK OFFICE

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PTO/SB/64 (12-07)
Approved for use through 12/31/2007. 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) IL920050029US1

First named inventor: Israel Berger

Application No.: 11/198,466 Art Unit: 2825

Filed: August 5, 2005 Examiner: LIN SUN J

Title: Automated migration of analog and mixed-signal VLSI design

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 $ 1500 (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.

12/31/2007 AWONDAF2 00000028 090468 11198466
01 FC:1453 1540.00 DA

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.

/Suzanne Erez/	December 23, 2007
Signature	Date
Suzanne Erez	46688
Typed or printed name	Registration Number, if applicable
IBM Labs, Haifa University, Mount Carmel, 31905, Haifa, Israel	972-4-8296069
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 _____

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/198,466	08/05/2005	Israel Berger	IL920050029US1	9030

7590 02/06/2008

Stephen C. Kaufman
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

EXAMINER
LIN, SUN J

ART UNIT	PAPER NUMBER
2825	

MAIL DATE	DELIVERY MODE
02/06/2008	PAPER

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The 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 date _____), which is after the expiration of the period for reply (including a total extension 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);
   (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 e 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 12-28-07 (with a Certificate of Mailing or Transmission date _____), 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 recieved.
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 Trasmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawing 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 filling 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:

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

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

Patent Publication Branch
Office of Data Management

OIPE IAP51
DEC 2 8 2007
PATENT & TRADEMARK OFFICE

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 09/18/2007

Suzanne Eroz
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/198,466	08/05/2005	Israel Berger	IL920050029US1	9030

TITLE OF INVENTION: AUTOMATED MIGRATION OF ANALOG AND MIXED-SIGNAL VLSI DESIGN

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$0	$1700	12/18/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
LIN, SUN J	2825	716-003000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☒ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 ____
2 ____
3 ____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.
(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)
International Business Machines Corporation Armonk, New York
Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies ____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)
☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 09-0468 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature ____ Date 23-12-07
Typed or printed name Suzanne Erez Registration No. 46,688

This collection of information is required by 37 CFR 1.311. 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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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12/31/2007 AWONDAF2 00000027 090468 11198466
01 FC:1501 1440.00 DA
02 FC:1504 300.00 DA

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11198466 Total Records Found: 11

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
12/31/2007	00000055	1	1501	$1,440.00	12/28/2007	DA 090468
12/31/2007	00000056	1	1504	$300.00	12/28/2007	DA 090468
12/31/2007	00000057	1	1453	$1,540.00	12/28/2007	DA 090468
02/27/2006	00000180	4	8021	$40.00	02/27/2006	DA 090468
10/24/2005	00000038	1	1051	$130.00	10/21/2005	DA 090468
10/24/2005	00000039	1	1463	$200.00	10/21/2005	DA 090468
08/10/2005	00000261	1	1011	$300.00	08/05/2005	DA 090468
08/10/2005	00000262	1	1111	$500.00	08/05/2005	DA 090468
08/10/2005	00000263	1	1311	$200.00	08/05/2005	DA 090468
08/10/2005	00000264	1	1201	$400.00	08/05/2005	DA 090468
08/10/2005	00000265	1	1202	$750.00	08/05/2005	DA 090468

Correspondence Address for 11/198466

Customer Number	Contact Information	Address
No Customer # Delivery Mode: PAPER	Telephone: (914)945-3197 Fax: (914)945-3281 E-Mail: No E-Mail Address	Stephen C. Kaufman IBM CORPORATION Intellectual Property Law Dept. P.O. Box 218 Yorktown Heights NY 10598

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 09/18/2007

Stephen C. Kaufman
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

EXAMINER
LIN, SUN J

ART UNIT	PAPER NUMBER
2825	

DATE MAILED: 09/18/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/198,466	08/05/2005	Israel Berger	IL920050029US1	9030

TITLE OF INVENTION: AUTOMATED MIGRATION OF ANALOG AND MIXED-SIGNAL VLSI DESIGN

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$0	$1700	12/18/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

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CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 09/18/2007

Stephen C. Kaufman
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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LIN, SUN J	2825	716-003000

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   - ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
   - ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
   (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
   (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
   1 _____
   2 _____
   3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid Issue fee shown above)**
- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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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.
11/198,466	08/05/2005	Israel Berger	IL920050029US1	9030

7590 09/18/2007

Stephen C. Kaufman
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

EXAMINER
LIN, SUN J

ART UNIT	PAPER NUMBER
2825	

DATE MAILED: 09/18/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 308 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 308 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

AUTOMATED MIGRATION OF ANALOG AND MIXED-SIGNAL VLSI DESIGN

the specification of which (check one)

_X_ is attached hereto.

___ was filed on _____ as United States Application Number

or PCT International Application Number _____

and was amended on _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application, having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed
(Number)	(Country)	(Day/Month/Year Filed)	___ Yes ___ No
(Number)	(Country)	(Day/Month/Year Filed)	___ Yes ___ No

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below.

(Application Number)	(Filing Date)
(Application Number)	(Filing Date)

I hereby claim the benefit under 35 U.S.C. §120 of any United States Application(s), or §365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States, or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information material to the patentability of this application as defined in 37 CFR §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)

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 willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith, **00877**

Send Correspondence to: Stephen C. Kaufman, IBM CORPORATION, Intellectual Property Law Dept.
P.O. Box 218, Yorktown Heights, New York 10598

Direct Telephone Calls to: (name and telephone number) Stephen C. Kaufman (914) 945-3197

BEST AVAILABLE COPY

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

Israel BERGER
Full name of sole or first inventor

Inventor's signature Date

11 Kidron Street, Haifa 34463, Israel
Address

Israel
Citizenship

IBM Corporation. Haifa Research Labs. Haifa University. Mount Carmel. Haifa. Israel 31905
Post Office Address

Kirill DYAGILEV
Full name of second joint-inventor, if any

August 3, 2005
Inventor's signature Date

16/2 Zalman Shneor Street, Haifa 32544, Israel
Address

Israel
Citizenship

IBM Corporation. Haifa Research Labs. Haifa University. Mount Carmel. Haifa. Israel 31905
Post Office Address

Dov RAMM
Full name of third joint-inventor, if any

/Dov Ramm/ August 04, 2005
Inventor's signature Date

Shaked, D.N. Menashe 37862, Israel
Address

Israel
Citizenship

IBM Corporation. Haifa Research Labs. Haifa University. Mount Carmel. Haifa. Israel 31905
Post Office Address

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Benjamin SHEINMAN
Full name of fourth joint-inventor, if any

Inventor's signature — Date: August 3 2005

1 Klibanov Street, Haifa 32804, Israel
Address

Israel
Citizenship

IBM Corporation. Haifa Research Labs. Haifa University. Mount Carmel. Haifa. Israel 31905
Post Office Address

Oren SHLOMO
Full name of fifth joint-inventor, if any

Inventor's signature — Date

52/6 HaAlon Street, Nesher 36811, Israel
Address

Israel
Citizenship

IBM Corporation. Haifa Research Labs. Haifa University. Mount Carmel. Haifa. Israel 31905
Post Office Address

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SHREWSBURY, NJ 07702

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In re Application of	:
Rajit CHANDRA	:
Application No. 11/198,467	:DECISION ON PETITION
Filed: August 5, 2005	: 37 CFR 1.137(b)
Attorney Docket No. GRAD/009	:

This is a decision on the petition, filed September 18, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 4, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of accompanies this decision on petition.

This application is being referred to Technology Center 2825.

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

Francis Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/198,467	08/05/2005	Rajit Chandra	GRAD/009

CONFIRMATION NO. 9029

26291
PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY, NJ 07702

NONPUBLICATION RESCISSION LETTER

OC000000027144372

Date Mailed: 12/07/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/13/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Berkhin et al.	:	DECISION ON PETITION
Application No. 11/198,471	:	TO WITHDRAW
Filed: August 4, 2005	:	FROM RECORD
Attorney Docket No. 50269-0673	:	

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 23, 2005.

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

A review of the file record indicates that all previous powers of attorney were revoked by the assignee of the patent application on September 12, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: HICKMAN PALERMO TRUONG & BECKER LLP/YAHOO! INC.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

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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SEP 18 2005

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

In re application of Geoffrey M. Glass Application No. 11/198,476 Filed: August 05, 2005 For: PORTABLE SIGN FRAME ASSEMBLY WITH CHANGEABLE SIGNAGE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 05, 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 **DISMISSED**.

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 signed statement from the applicant.

Any request for reconsideration must be filled within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration; he should supplement this petition by a declaration or statement giving the information outlined above.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

RAR/pav: 10/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE
NOV 17 2005
TECHNOLOGY CENTER 3600

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

In re application of Geoffrey M. Glass Application No. 11/198,476 Filed: August 05, 2005 For: PORTABLE SIGN FRAME ASSEMBLY WITH CHANGEABLE SIGNAGE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on November 09, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/slb: 11/16//05

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Westinghouse Electric Company, LLC
P. O. Box 355
Pittsburgh, PA 15230-0355

COPY MAILED
OCT 3 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Warren R. Junker, et al.	:	
Application No. 11/198,482	:	NOTICE
Filed: August 5, 2005	:	
Attorney Docket No. RDM2003-002	:	

This is in response to the paper filed August 10, 2005 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the request, status as a Small Entity has been removed.

This file is being referred to Technology Center 1700 for further processing.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YOKOI & CO., U.S.A., INC.
#1512
13700 MARINA POINTE DRIVE
MARINA DEL REY, CA 90292

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Takashi Ishidoshiro	:	
Application No. 11/198,491	:	DECISION ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. P05-1023	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 25, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 25, 2008. Accordingly, the date of abandonment of this application is June 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/198,492	08/05/2005	Takao Tani	P05-1015	9243

7590 05/21/2008
YOKOI & CO. U.S.A., INC.
13700 MARINA POINTE DRIVE #723
MARINA DEL RAY, CA 90292

EXAMINER
AMIN, BHAVESH V

ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
05/21/2008	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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
05/22/2008 NFARMER 0000162816

CHECK Refund Total: $500.00

Adjustment date: 05/22/2008 NFARMER
08/10/2005 WASFAW1 00000002 11198492
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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.
11/198,501	08/05/2005	Toshio Fukuda	075834.00726	9220

7590 01/11/2008

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

EXAMINER
STEPHENS, JUANITA DIONNE

ART UNIT	PAPER NUMBER
2853	

MAIL DATE	DELIVERY MODE
01/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Richards Clemons
Patent Publication Branch
Office of Data Management

02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/198,501	08/05/2005	Toshio Fukuda	075834.00726	9220

33448 7590 01/10/2008
ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER
STEPHENS, JUANITA DIONNE

ART UNIT	PAPER NUMBER
2853	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

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

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

Notice of Abandonment	Application No.	Applicant(s)	
	11/198,501	FUKUDA ET AL.	
	Examiner	Art Unit	
	Stephens, Juanita	2853	

-- 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

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INTELLECTUAL PROPERTY GROUP
SEAGATE TECHNOLOGY FILES
FREDRIKSON & BYRON, PA
200 SOUTH SIXTH ST, SUITE 4000
MINNEAPOLIS, MN 55402-1425

Mail Date: 04/21/2010

Applicant	: Neal F. Gunderson	: DECISION ON REQUEST FOR
Patent Number	: 7599147	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
attn: VDO-MDS docketing migration
ISELIN NJ 08830

COPY MAILED

MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of Dallmeyer Application No. 11/198,514 Filed: August 5, 2005 Attorney Docket No. 2004P01843US01 For: DEEP POCKET SEAT ASSEMBLY IN MODULAR FUEL INJECTOR HAVING AXIAL CONTACT TERMINALS AND METHODS	: : : : :	ON PETITION

This is a decision on the correspondence filed on July 24, 2007 and supplemented on January 17, 2008, which is being treated as a petition under 37 CFR 1.181, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to an Office letter purportedly mailed on February 12, 2007. The Office contended that this application became abandoned for failure to reply to the February 12, 2007 Office letter, as was explained in A Notice of Abandonment, mailed on May 24, 2007.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that no February 12, 2007 Office letter was received.

It is noted that a Notice to File Corrected Application Papers is present in an internal Office generated document dated February 5, 2007. The Notice to File Corrected Application Papers is not present in the application file as a separate document. It appears the Notice to File Corrected Application Papers was never mailed to applicant.

Therefore, the petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the May 24, 2007 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 forwarded to the Office of Data Management for the mailing of the Notice to File Corrected Application Papers with a period for reply to run from the mail date of the Notice.

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

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DADE BEHRING INC.
LEGAL DEPARTMENT
1717 DEERFIELD ROAD
DEERFIELD IL 60015

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Craig et al.	:	
Application No. 11/198,535	:	ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. DCS-9194	:	

This is a decision on the petition filed December 5, 2005, requesting that the above-identified application be accorded a filing date of August 5, 2005, rather than the presently accorded date of August 4, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 5, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ED 420141520 US showing a handwritten "date-in" of "August 5, 2005." The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on August 5, 2005, at 5:00 p.m. at the Deerfield, IL USPS.

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on August 5, 2005.

The petition is **GRANTED**.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of August 5, 2005, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 1600 for examination in due course.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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
11/198,535	08/05/2005	1642	1300	DCS-9194		26	3

CONFIRMATION NO. 8684

CORRECTED FILING RECEIPT

OC000000017994023

34500
DADE BEHRING INC.
LEGAL DEPARTMENT
1717 DEERFIELD ROAD
DEERFIELD, IL 60015

Date Mailed: 02/06/2006

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)

Alan R. Craig, Wilmington, DE;
Steve Kramer, Middletown, DE;
Ashok Koul, Wilmington, DE;

Power of Attorney: The patent practitioners associated with Customer Number **34500**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/605,106 08/26/2004

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/198,535

Projected Publication Date: 03/02/2006

Non-Publication Request: No

Early Publication Request: No

Title

Deactivation of linking moieties in antibody-enzyme conjugates

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
WAGNER et al.	:	
Application No. 11/198,538	:	DECISION ON PETITION
Filed: 08/05/2005	:	
Attorney Docket No. 9835M	:	

This is a decision on the petition filed May 5, 2008, to withdraw the holding of abandonment in the above-identified application.

On January 26, 2007, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. On May 24, 2007, petitioners filed a notice of appeal, an appeal brief, and a request for an extension of time for response with the first month (and fee). On July 2, 2007, the Office mailed a Notification of Non-Compliant Appeal Brief, which set a period of one month or thirty days, whichever was longer to reply. On August 2, 2007, petitioners filed an appeal brief. On November 1, 2007, petitioners filed a Request for Continued Examination (RCE) (and fee) and an Information Disclosure Statement (IDS). On November 20, 2007, the Office mailed a Notice of Improper Request for Continued Examination (RCE), indicating that the RCE filed on November 1, 2007, was improper because the request was not accompanied by a submission as required by 37 CFR 1.114. The Notice further indicated that because the application was not under appeal, the time period set forth in the final Office action continued to run from the mailing date of that action. Thereafter, on November 21, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioners assert that they filed a proper and timely submission with the RCE in the form of an IDS. Petitioners request that the Office withdraw the holding of abandonment.

A review of the record confirms that petitioners filed a RCE and an IDS in this application on November 1, 2007, before a decision by the Board of Patent Appeals and Interferences. However, the request lacked a proper submission as required by 37 CFR 1.114 because the filing of a submission in the form of a IDS is not a complete reply to the outstanding Office action.

The Office notes that if an RCE is filed in an application after appeal to the Board but the request does not include the submission required by 37 CFR 1.114, the examiner will treat the request as an improper RCE and withdraw the appeal pursuant to 37 CFR 1.114(d). See MPEP 706.07(h)(X)(B). If the submission only includes an IDS, the submission will not be considered a bona fide attempt to provide a complete reply to the outstanding office action and will be treated as an improper submission or no submission at all under 37 CFR 1.114(c). See id.; MPEP 706.07(h)(VI). Furthermore, the filing of an improper RCE does not toll the period for reply.

Upon withdrawal of the appeal, the application will be treated in accordance with MPEP § 1215.01 based on whether there are any allowed claims or not. The proceedings as to the rejected claims are considered terminated. Therefore, when an RCE is filed without the appropriate submission in an application that has no allowed claims, the application will be considered abandoned. See MPEP 1215.01

In view of the above, the application was properly held abandoned. Accordingly, the petition is **dismissed**.

Any request for reconsideration must be submitted within TWO MONTHS of the mailing date of this decision. No extensions of this time period are available. See 37 CFR 1.181(f). The request for reconsideration of this decision should be entitled "Renewed Petition Under 37 CFR 1.181."

In the alternative, the petitioner may wish to file a petition under 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 § 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 § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The application will remain in its abandoned state until petitioners file a petition to revive the application, a petition fee, and a proper submission under 37 CFR 1.114 (i.e., a reply responsive within the meaning of 37 CFR 1.111 to the last outstanding Office action). Petitioners do not need to re-submit the RCE and the RCE fee on filing a petition to revive under 37 CFR 1.137(b) or a "Renewed Petition Under 37 CFR 1.181."

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA FL 33602

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of	:	
FUNK, Conley Jack et al.	:	
Application No. 11/198,570	:	DECISION ON PETITION
Filed: August 04, 2005	:	TO WITHDRAW
Attorney Docket No. **P050820-01CIP2**	:	FROM RECORD
	:	

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, 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 Christopher Paradies on behalf of all attorneys of record who are associated with customer No. 43749. 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 Conley Jack Funk 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: **CONLEY JACK FUNK**
c/o RECOGNITION INSIGHT, LLC
6811 MOSSEY GLENN DRIVE
FORT MYERS, FL 39908

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NOV 02 2005
Director's Office
Group 3700

Souris Nicholas
331 Hurt Road
Smyrna, GA 30082

In re application of Nickolas Souris	: :	**DECISION ON PETITION** **TO MAKE SPECIAL**
	:	**UNDER 37 CFR. 1.102(c)**
Serial Number: 11/198,574	:	
Filed: August 08, 2005	:	

For: **TIP-LARYNGEAL AIRWAY**

This is a decision on the petition filed on August 08, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 11/2/05

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United States Patent and Trademark Office
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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 04/21/2010

Applicant	: David E. Tetzlaff	: DECISION ON REQUEST FOR
Patent Number	: 7598768	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,576	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1055** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : April 11, 2006

TO SPE OF : ART UNIT 3744 (S.P.E. Cheryl Tyler)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/198605 Patent No.: 7,017,356

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**.

Please see claim 25, the request must be reviewed as: delete "a condenser" and substitute --an evaporator--, and delete "an evaporator" and substitute --a condenser-- (for grammar purposes).

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Figure 4 clearly teaches the correct order of the components as suggested by the Certificate of Correction.

Cheryl J. Tyler

SPE

3744

Art Unit

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WARD/KRAFT, INC.
2401 COOPER STREET
P. O. BOX 938
FT. SCOTT KS 66701

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OFFICE OF PETITIONS

In re Application of :

LOWRY, et al. :
Application No. 11/198,615 : DECISION ON PETITION
Filed: August 5, 2005 : TO WITHDRAW
Attorney Docket No. **2005-19** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 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, "undersigned ceased to be counsel for assignee of record...assignee has not yet transferred all matter to new counsel...," does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Wagner, et al.	:	
Application No. 11/198,618	:	DECISION ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. 9833	:	

This is a decision on the petition filed November 17, 2006 , requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed November 10, 2006 be withdrawn and the Office accept in its place a terminal disclaimer filed concurrently with the present petition.

The petition is **granted**.

Petitioners assert that there was a typographical error in an application serial number being disclaimed. Petitioners typed "11/197,138" instead of "11/067,138". Petitioners have filed a corrected/replacement terminal disclaimer listing Application No. 11/067,138, among others that were listed in the November 10, 2006 terminal disclaimer.

The November 10, 2006 terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

Pursuant to petitioners' authorization, deposit account no. 16-2480 will be charged the $130.00 terminal disclaimer fee and the $400.00 petition fee.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of

Tatum, et al.

Application No. 11/198,619

Filed: August 5, 2005

Attorney Docket No. 15436.556.1

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed April 18, 2008, which set a shortened statutory period for reply of three-months from its mailing date. A response was not received within the allowable period and the application became abandoned on July 19, 2008.

The Request for Continued Examination filed October 23, 2008, is noted.

The application file is being forwarded to Technology Center 2800, GAU 2883 for further processing.

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

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MERIT MEDICAL SYSTEMS, INC.
C/O STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Nicholas Gerald Accisano III	: DECISION ON REQUEST FOR
Patent Number	: 7578814	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1040** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

18 SEP 2009

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of BROWN et al.	:	
Application No.: 11/198,663	:	DECISION ON PETITION
Filing: 05 August 2005	:	
Attorney Docket No.: 229752005820	:	UNDER 37 CFR 1.78(a)(3)
For: HYALURONAN AS A CYTOTOXIC AGENT, DRUG PRE-SENSITIZER AND CHEMO-SENSITIZER IN THE TREATMENT OF DISEASE	:	

This is a decision on to "Petition Accept Benefit Claim under 35 U.S.C. 120 Where Benefit Claim is Untimely and Amendment of Specification", filed 29 June 2009. The petition is treated under 37 CFR 1.78(a)(3)to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/AU01/00849 filed on 13 July 2001. The petition is DISMISSED.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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 instant petition does not comply with item (1).

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed foreign 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 after the filing date of the application, the amendment would not be proper. When a benefit claim 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).

Furthermore, the ADS lacks the proper signature required under 37 CFR 1.33(b) and 10.18. The most recent version of Form/SB/14 contains an appropriate signature block. The form can be obtained at: http://www.uspto.gov/ebc/portal/efs/sb0014_fill.pdf. Applicant is further advised that a supplemental ADS must be titled in accordance with 37 CFR 1.76(c)(2).

Accordingly, 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[1] stating the relationship of the prior-filed application to PCT/US2001/020887 is required.

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

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

By hand: Customer Window located at:
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

Byran Lin

Byran Lin
PCT Legal Examiner
Office of PCT Legal Administration

---

[1] *Note* 37 CFR 1.121

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2 1 DEC 2009

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of BROWN et al.	:	
Application No.: 11/198,663	:	DECISION ON PETITION
Filing: 05 August 2005	:	
Attorney Docket No.: 229752005820	:	UNDER 37 CFR 1.78(a)(3)
For: HYALURONAN AS A CYTOTOXIC AGENT, DRUG PRE-SENSITIZER AND CHEMO-SENSITIZER IN THE TREATMENT OF DISEASE	:	and 37 CFR 1.55(c)

This is a decision on Petitioner's "Renewed Petition to Accept Benefit Claim under 35 U.S.C. 120 Where Benefit Claim is Untimely and Amendment of Specification", filed 01 October 2009. The petition is treated under 37 CFR 1.78(a)(3)to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/AU01/00849 filed on 13 July 2001. The petition is also treated under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. 119 to foreign application number PQ8795 filed on 14 July 2000.

As to the benefit claim under 37 CFR 1.78(a)(3):
At the time of filing the present application, applicant did not make a proper claim for domestic priority. Thus, the filing of a petition under 37 CFR 1.78(a)(3) is necessary. Such petition is hereby **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.

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The present application claims the benefit under 35 U.S.C. 120 of a non-provisional application which was filed on 13 July 2001, which is after November 29, 2000 and within 12 months of the filing date of the foreign application to which benefit is now being claimed. On 02 December 2009, applicant submitted an Application Data Sheet which identified the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1410 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements having been met, the petition under 37 CFR 1.55(c) is **GRANTED**.

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

This matter is being referred to Technology Center AU 1628 for continued examination.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

BryanLin

Bryan Lin
Legal Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and

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SEP 14 2005

In re Application of	:	
Charles Gutentag	:	
Serial No. 11/198,669	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO MAKE SPECIAL
For: ADHESIVE BACKED CARRIER TAPE	:	
WITH CALIBRATED LEVELS OF LOW	:	
TACK ADHESION FOR RETENTION	:	
OF SMALL COMPONENTS	:	

Applicant's petition, filed August 5, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Thomas I. Rozsa
Rozsa Law Group, LC
15910 Ventura Boulevard, Suite 1601
Encino, CA 91436-2815

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3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Roger R. Adams	: DECISION ON REQUEST FOR
Patent Number	: 7610972	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **756** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
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AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Kenneth W. Fernald	: DECISION ON REQUEST FOR
Patent Number	: 7653757	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **6** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
KEARBY, Gerald W. et al	:	DECISION ON PETITION
Application No. 11/198,713	:	TO WITHDRAW
Filed: August 05, 2005	:	FROM RECORD
Attorney Docket No. **NRTNNZ00700**	:	

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 **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 Levine on behalf of all attorneys of record who are associated with customer No. 40518. All attorneys/agents associated with the Customer Number 40518 have been withdrawn.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NEUROTONE, INC**
2317 BROADWAY STREET
SUITE 250
REDWOOD CITY, CA 94063

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MAY 11 2007

John H. Runnels
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In re Application of	:
TODD et al	:
Serial No.: 11/198,714	: Decision on Petition
Filed : 5 AUGUST 2005	:
Attorney Docket No.: Todd02A06	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 22 February 2007.

BACKGROUND

The petition filed under 37 CFR 1.144 requests reconsideration of the restriction requirement mailed 11 July 2007 which divided claims 1-24 into 2 groups as follows:

I. Claims 1-10, drawn to an article of manufacture comprising a nonpolar polymer and an amphipathic, alpha-helical peptide, classified in class 530, subclass 300.

II. Claims 11-24, drawn to a process for enhancing the ability of a nonpolar polymer to interact with a polar liquid, classified in class 530, subclass 334.

The examiner reasoned that the inventions were related as product and process of use. The examiner asserted that the inventions were distinct by identifying a materially different

product, such as soap, detergent and/or surfactant applied to a non-polar surface, with which the process could be practiced.

On 6 October 2006, Applicants elected a group I, claims 1-10 with traverse.

On 15 December 2006, the examiner considered the traversal and made the restriction requirement FINAL. Claims 11-17 were withdrawn from examination. Claims 1-10 were rejected under 35 USC 112, second paragraph. Claims 1, 5-7, 9-10 were rejected under 35 USC 102(b) as being anticipated by Haynie. Claims 1, 2, 4-10 were rejected under 35 USC 102(b) as being anticipated by Hansel. Claims 1, 6-7, 9-10 were rejected under 35 USC 102(a) as being anticipated by McDaniel. Claims 1, 5-7, 9-10 were rejected under 35 USC 102(a) and 102(e) as being anticipated by Keeler. Claim 3 was rejected under 35 USC 103(a) as being unpatentable over Haynie in view of McDonald.

This petition was filed 22 February 2007, after the restriction requirement was made final and before the filing of a Notice of Appeal, and is thus considered timely.

DISCUSSION

The petition and the file history have been considered carefully.

The petition argues that the product and process, *as claimed,* are not distinct. Applicants are correct that it is the claimed subject matter which must be compared when considering restriction requirements. See MPEP 806.01:

> In passing upon questions of double patenting and restriction, it is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence.

Moreover, the test for distinction between product and processes are requires consideration of the product and process as claimed. See 806.05(h) (emphasis added):

> A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using *as claimed* can be practiced with another materially different product; or (B) the product *as claimed* can be used in a materially different process.
>
> The burden is on the examiner to provide an example, but the example need not be documented.

The petition argues that the product and process, *as claimed,* are not distinct because the process, as claimed, could not be practiced with the materially different product proposed by the examiner (soap, detergent and/or surfactant applied to a non-polar surface). Applicant argues that claim 11 requires an amphipathic, alpha helical peptide.

The independent claims of Groups I and II are set forth below.

1. An article of manufacture comprising a nonpolar polymer and an amphipathic, alpha-helical peptide; wherein at least a portion of the surface of said polymer is bound to said peptide; wherein that portion of the surface to which said peptide is bound has an enhanced ability to interact with polar liquids as compared to the surface of an otherwise identical polymer lacking said peptide on its surface; and wherein said article of manufacture is not adapted to contain, to transport, to measure, or to purify a substance.

11. A process for enhancing the ability of a nonpolar polymer to interact with a polar liquid; said process comprising binding at least a portion of the surface of the polymer to an amphipathic, alpha helical peptide; whereby that portion of the surface to which the peptide is bound has an enhanced ability to interact with polar liquids as compared to the surface of an otherwise identical polymer lacking the peptide on its surface.

A review of claim 11 shows that amphipathic, alpha helical peptide is a required limitation in the third line. Applicants are correct that the process of Claim 11 could not be practiced by substituting soap, detergent and/or surfactant for the amphipathic, alpha helical peptide required by Claim 11. Applicants are correct that the example provided by the examiner to support distinction between Groups I and II was not directed to or encompassed by the process *as claimed*. MPEP 806.05(h) goes on to state:

> If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.

Because no viable alternative has been provided, the showing of distinction cannot be maintained and the restriction requirement between Group I and II has been withdrawn.

DECISION

The petition filed under 37 CFR 1.144 is **GRANTED**.

The restriction requirement between Groups I and II has been withdrawn.

The application will be forwarded to the Examiner to prepare a non-final Office action consistent with this decision.

Should there be any questions regarding this decision, please Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Patent No. 7,545,086	:	
Ishikawa et al.	:	DECISION ON
Issue Date: June 9, 2009	:	REQUEST FOR
Application No. 11/198,723	:	RECONSIDERATION OF
Filed: August 4, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281/5148	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed August 7, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred thirty-five (435) days to five hundred seventy-two(572) days. The petition will be treated under 37 C.F.R. § 1.705(d).

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

On June 9, 2009, the above-identified application matured into U.S. Patent No. 7,545,086 with a patent term adjustment of 435 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

Pursuant to patentees' authorization, the $200.00 fee set forth in 37 C.F.R. § 1.18(e) will be charged to deposit account no. 23-1925. No additional fees are required.

Patentees assert entitlement to a patent term adjustment of 572 days (435 + 137 reduced by 0 overlap - 0 (applicant delay)).

The Office contends that the application accrued a period of adjustment of 136, not 137 days, for over three year pendency, as terminated by the filng of a RCE on December 19, 2008. The Office agrees that a certain action was not taken within a specified time frame, and thus, pursuant to 35 U.S.C. § 154(b)(1)(A) and 37 CFR 1.702(a)(1) the entry of a period of

adjustment of 435 days for Office delay is correct. At issue is whether Patentees should accrue 136 days[1] of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 435 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 136-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 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

[1] The filing of a RCE cuts-off applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In 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, August 4, 2005 to December 18, 2008, the day before the date on which the RCE was filed). 435 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within a specified time frame during the pendency of the application. All of the 136 days for Office delay in issuing the patent overlap with the 435 days of Office delay (No days of Office delay were accorded subsequent to the filing of the RCE).

The 136 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 435 days attributable to the ground specified in 37 C.F.R. § 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, no adjustment to the patent term will be made.

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 Petitions

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AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Jonathan Martin Shekter	: DECISION ON REQUEST FOR
Patent Number	: 7599572	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,724	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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OFFICE OF PETITIONS

In re Application of	:	
Clark Hills et al.	:	
Application No. 11/198,732	:	DECISION ON PETITION
Filed: August 4. 2005	:	TO WITHDRAW
Attorney Docket No. 1117-002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 2007.

The request is **APPROVED**.

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

The request was signed by Mark H. Plager 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 Clark Hills at the address indicated below.

There is an outstanding Office action mailed May 1, 2007 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: **Clark Hills**
P.O. Box 10612
Santa Ana, CA 92711

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/198,732	08/04/2005	Clark Hills	10117-002

CONFIRMATION NO. 2169

OC000000025143041

22252
PLAGER LAW OFFICES
16152 BEACG BLVD.
SUITE 207
HUNTINGTON BEACH, CA 92647

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2007.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ROSS T. ROBINSON
JENKENS & GILCHRIST, A PROFESSIONAL CORPORATION
1445 ROSS AVENUE SUITE 3200
DALLAS, TX 75202

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AUG 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Boman et al.	:	
Application No. 11/198,738	:	ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. 62929-00002USC1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

In view of the Notice to Withdraw Petition submitted on May 22, 2006, the petition is hereby dismissed as moot. The instant application does not claim benefit to provisional Application No. 60/449,406, filed February 25, 2003.

In view of the above, the $1370.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 1629 for appropriate action.

Liana Chase
Petitions Examiner
Office of Petitions

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MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS NY 10606

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Boze et al.	:	
Application No. 11/198,739	:	ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. BOZE 203	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 1, 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 Manfred K. Lenz's U.S. Passport. 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 1744 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT W PITTS
PO BOX 11483
WINSTON-SALEM, NC 27116-1483

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JUN 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Darrell Gauthier	:	
Application No. 11/198,744	:	DECISION GRANTING PETITION
Filed: August 8, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 07055	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed October 24, 2006, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on September 17, 2007, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to Technology Center AU 3721 to consider the reply received September 17, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/198,744	08/08/2005	Darrell Gauthier	IIM - 1

CONFIRMATION NO. 1631

POA ACCEPTANCE LETTER

24386
ROBERT W PITTS
PO BOX 11483
WINSTON-SALEM, NC 27116-1483

OC000000030356882

Date Mailed: 06/06/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2007.

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

/kocreasy/

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

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DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL NJ 07733

COPY MAILED
JAN 22 2009

In re Application of	:	
Guinta	:	
Application No. 11/198,793	:	DECISION ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. 220-016US	:	

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed September 3, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive 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(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply to a non-final Office action, mailed June 29, 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 30, 2007. A Notice of Abandonment was mailed on January 8, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition lacks item (3).

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.

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).

Petitioner argues 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 due to the financial condition of the applicant.

Petitioner asserts financial inability to employ the services of patent counsel to aid in preparing a timely reply to the outstanding Office action of June 29, 2007 as the cause of unavoidable delay.

While resources would have been necessary to employ the assistance of counsel in continuing the prosecution of the above-identified application, persons seeking patent rights have no "right" to the assistance of counsel during the application process. Boyden v. Commissioner of Patents, 441 F.2d 1041, 168 USPQ 680 (D.C. Cir. 1971). As patent applications are commonly prosecuted *pro se*, arguments that the financial inability to employ counsel to aid in the prosecution of an application rendered the abandonment of the application "unavoidable" are unpersuasive. That is, while applicants may obtain the services of counsel to assist in the application process, such counsel is not strictly necessary, and, as such, the financial inability to employ such counsel does not render a delay in providing a required response "unavoidable."

The petition under 37 CFR 1.137(a) is dismissed.

The undersigned suggests that petitioner 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 prosecution or in late payment of the issue fee was

"unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 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 petitioners 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL NJ 07733

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Guinta	:	
Application No. 11/198,793	:	DECISION ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. 220-016US	:	

This is a decision on the petition under the unintentional delay standard of 37 CFR 1.137(b), filed March 20, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply to a non-final Office action, mailed June 29, 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 30, 2007. A Notice of Abandonment was mailed on January 8, 2008.

Applicant has submitted an amendment in reply to the June 29, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 29, 2007 non-final Office action, and the $810.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3644 for consideration of the amendment filed on March 20, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Charles E. Lykes, Jr. Esq.
Suite 101
501 S. Ft. Harrison Ave.
Clearwater FL 33756-5348

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JAN 1 5 2008

OFFICE OF PETITIONS

In re Application of :
Dunn, et al. :
Application No. 11/198,815 : ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. 2005028PTP :
For: IMPROVED ELECTROMOTIVE
MACHINE UTILIZING HALBACH ARRAY

This is a decision on the petition under 37 CFR 1.181, filed November 16, 2007 (certificate of mailing date November 13, 2007), to withdraw the holding of abandonment and the petition under 37 CFR 1.182 to expedite a decision on petition, filed December 10, 2007 (certificate of mailing date December 7, 2007).

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

The petition under 37 CFR 1.182 to expedite is **GRANTED**.

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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed August 15, 2007, which set a 60 day non-extendable period to correct the informalities addressed in the Notice. No reply was received. Therefore, the application became abandoned on October 15, 2007.

Petitioner requests withdrawal of the holding of abandoned based on the assertion that any failure to timely and fully respond to any requirement was based upon confusion regarding the contents of the application file and, at least in part, from contradictory instructions received by officials of the Office.

On November 28, 2006, a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed. On February 15, 2007, a Corrected Notice of Allowance and Fee(s) Due and presumably, a Notice of Allowability, were mailed. The February 15, 2007 mailing set a new

period for response. Therefore, corrected drawings, the issue fee, the publication fee, and a completed PTOL-85b were due by May 15, 2007. No response being received by May 15, 2007, the Office mailed a Notice of Abandonment on June 11, 2007. Applicants paid the required fees on June 26, 2007. It is noted that the PTOL-85b contains a completed proper certificate of mailing dated May 15, 2007. Thus, the issue fee, the publication fee, and the PTOL-85b were considered filed on May 15, 2007. The drawings were **not** listed on the PTOL-85b and there appears to be no separate certificate of mailing for the drawings. It is arguable that the application became abandoned on May 16, 2007 for failure to timely file corrected drawings. Nevertheless, the Office of Patent Publication withdrew the June 11, 2007 Notice on July 9, 2007.

On August 15, 2007, the Office mailed a Notice to File Corrected Application Papers. The Notice afforded applicants a 60 day non-extendable period to respond to the particulars of the Notice.

Applicants' representative, Tashi Kench, purportedly contacted the Office in mid October 2007 to ascertain what, if any reply, was required of them because the August 15, 2007 Notice was inconsistent with the version of the application understood to be operable by applicants' attorney, Charles E. Lykes, Jr., Esq.. A member of the Office, Robert Hafford, purportedly told Ms. Kench that a miscellaneous notice had been mailed to applicants and that no further action was required by applicants. As a preliminary matter, it is noted that Ms. Kench's memorandum to the file is dated October 22, 2007, which is after the 60 day non-extendable period for response to the Notice had expired. Thus, it appears that applicants waited until after the expiration of the period for response to obtain information regarding the Notice.

In addition, applicants are reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). An Office employee's alleged statements made during a telephone conversation cannot nullify the August 15, 2007 Notice, which required applicants to address specific informalities, as indicated in the Notice, to avoid abandonment of the application. Even if the Notice appeared to be inconsistent with the version of the application understood to be operable by applicants' attorney, a response was required within the time period set by the Notice. Applicants' attorney should have pointed out the apparent inconsistency in a response filed prior to October 15, 2007.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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

Given the facts and circumstances of this case, the undersigned suggests that petitioners file a petition stating that the delay was unintentional, rather than unavoidable. Public Law 97-247,

§ 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 petition 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 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 petitioners 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:
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Commissioner for Patents
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Alexandria, VA 22313-1450

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Charles E. Lykes, Jr. Esq.
Suite 101
501 S. Ft. Harrison Ave.
Clearwater FL 33756-5348

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JAN 3 0 2008

OFFICE OF PETITIONS

In re Application of :
Dunn, et al. :
Application No. 11/198,815 : ON PETITION
Filed: August 5, 2005 :
Attorney Docket No. 2005028PTP :
For: IMPROVED ELECTROMOTIVE
MACHINE UTILIZING HALBACH ARRAY

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

This application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed August 15, 2007, which set a 60 day non-extendable period to correct the informalities addressed in the Notice. No reply was received. Therefore, the application became abandoned on October 15, 2007.

Applicants have submitted a proper reply to the August 15, 2007 Notice in the form of an amendment to the specification and a sheet of drawings, an acceptable statement of the unintentional nature of the delay in responding to the August 15, 2007 Notice, and the $770.00 petition fee.

Regarding the statement of delay: 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Practitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

All requirements under 37 CFR 1.137(b) being met, the petition under 37 CFR 1.137(b) is granted

After the mailing of this decision, the file will be returned to the Office of Data Management for consideration of the amendment and drawings filed with the present petition.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of :
LAM, et al. :
Application No. 11/198,817 :
Filed: August 4, 2005 :
Attorney Docket No. **APL1P193C1/P2369C1** :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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 11, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center Art Unit 2835 for consideration of the amendment filed May 23, 2007 and the information disclosure statement filed October 17, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO CA 95015-1687

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence Lam, et al.	:	
Application No. 11/198,817	:	DECISION GRANTING PETITION
Filed: August 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. APL1P193C1/P2369C1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 5, 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 30, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Terri Williams

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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OFFICE OF PETITIONS

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

In re Application of Michael D. Ellis, et al. Application No. 11/198,830 Filed: August 4, 2005 Attorney Docket No. UV-84 Cont 3	: : : : :	ON PETITION

This is a decision on the petition, filed August 27, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed January 8 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 20, 2009. In response, on August 27, 2009, the present petition was filed wherein petitioner asserts that a reply was timely filed.

Petitioner is correct, in view of the filing of an appropriate request for extension of time and fee on July 8, 2009, the response period of April 8, 2009 was properly extended. Accordingly, no abandonment existed on July 8, 2009, the date upon which the amendment was filed.

The holding of abandonment for failure to timely file a response to the Office communication of January 8, 2009 is withdrawn and the application is restored to pending status.

The Notice of Abandonment mailed March 31, 2009 is hereby vacated.

This application is being referred to Technology Center AU 2421 for appropriate action in the normal course of business on the reply received July 8, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE CA 95109-0005

In re Application of	:	
George Benedict	:	
Application Number: 11/198837	:	ON PETITION
Filing Date: 08/05/2005	:	
Attorney Docket Number: BPI-001	:	
	:	

This is a decision in reference to the paper entitled "Petition to Withdraw Holding of Abandonment Or Petition to Revive Unavoidably Abandoned Application Or Petition to Revive Unintentional Abandoned Application," filed on July 22, 2009, which is treated as a petition under 37 CFR 1.181 to revive the above-identified application, and in the alternative under 37 CFR 1.137(a) and, in the alternative, under 37 CFR 1.137(b).[1]

The petitions are **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this

---

[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)).

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(a)" or as discussed below, a petition under 37 CFR 1.137(b).

This application became abandoned on March 13, 2009, for failure to timely the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on December 12, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on June 15, 2009.

Petitioner's counsel avers that the holding of abandonment was withdrawn, or the delay was unavoidable, because applicant's attorney had submitted an amendment after the mailing of the Notice of Allowance and was awaiting a Supplemental Notice of Allowance prior to submitting the issue and publication fees.

Petitioner states, in pertinent part:

> 5. On February 13, 2009 an Amendment After Allowance was submitted by attorney David Schneck. This document summarized the interview, amended claims 1, 45, 60 and 62. It was believed by attorney David Schneck that a Supplemental Notice of Allowance would shortly be sent allowing claims 1-65.
>
> 6. The due date for paying the issue fee remained on a reminder docket for attorney David Schneck. As the March 12 due date approached, phone calls were made to Examiner Chiem and Supervisor Font. Mr. Font was specifically questioned about a concern that the patent application would be abandoned, and gave specific reassurances that this would not occur. After repeated requests, Examiner Chiem faxed a copy of a Supplemental Notice of Allowance. However it contained errors. First, it stated "claims 45-82 are canceled". In fact claims 45-64 had not been canceled. Second, it stated in the Interview Summary that claims 1-44 had been discussed. In fact, as evidenced by the Amendment After Allowance, all the claims of Group I had been discussed. On a faxed Notice of Allowability, the Notice stated "Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below."

7. After receiving this Supplemental Notice of Allowability, attorney David Schneck called Examiner Chiem to discuss why claims 45-64 had been rejoined and why a Notice had not been mailed. He was assured that a Notice would be mailed shortly.

8. On May 26, 2009 A Supplemental Notice of Allowability was mailed to attorney David Schneck. It was substantially identical to the one sent by Fax. It also stated "Applicant has THREE MONTHS FOM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below." From this statement, it was believed that the applicant would have three months to resolve the remaining issues with this application, which were believed to be in error.

9. On June 15, 2009 a Notice of Abandonment was mailed by the Patent Office stating that the patent application had been abandoned for failure to pay the issue fee.

Petitioner further asserts that if the abandonment is judged as not unavoidable, the applicant petitions for unintentional abandonment. As such, the petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment, and under 37 CFR 1.137(a) as well as 37 CFR 1.137(b).

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Petitioner's argument has been considered, but is not persuasive.

35 U.S.C. 133 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.

37 CFR 1.135 states, in pertinent part:

> (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 Notice of Allowance and Fee(s) Due mailed on December 12, 2008 stated that **THE ISSUE FEE AND PUBLICATION (IF REQURED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED**.

As such, a statutory period of three (3) months from the date of the mailing of the Notice of Allowance and Fee(s) Due mailed December 12, 2008, was set for paying of the issue and publication fees. The issue and publication fees were concededly not paid within that three (3) month period. As such, the application became abandoned as a matter of law for failure to timely submit the issue and publication fees.

Moreover, the Supplemental Notice of Allowability mailed on May 26, 2009 states simply that Applicant has three months from the "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Nothing stated in the Supplemental Notice of Allowability, mailed on May 26, 009, however, stated that an additional time period was given for payment of the issue and publication fees.

Simply put, the Notice of Allowance and Fee(s) Due mailed on December 12, 2008, and the Notices of Allowability mailed on December 12, 2008 and May 26, 2009, set concurrent but distinct requirements with which petitioner was required to comply.

With regard to petitioner's contention that the examiner "assured" counsel that the application would not go abandoned for failure to timely pay the issue and publication fee while counsel was awaiting receipt of a supplemental notice of allowability, 37 CFR 1.2 states that the action of the U.S. 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. In this regard, there is nothing in the record stating that the period for submission of the issue and

publication fees had been restarted, or that a new time period had been set for submission thereof.

The showing of record is that the application became abandoned for failure to timely submit the issue and publication fees. The petition to withdraw the holding of abandonment is therefore **dismissed**.

PETITION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

The petition lacks the showing required by item (3)

With regard to 37 CFR 1.137(a)(3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] 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:

[2] 35 U.S.C. § 133.

> 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]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] 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, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

The gravamen of petitioner's argument, that he relied upon the examiner's oral assurances that the application would not become abandoned, despite the fact that the issue fee and publication fee had not been timely paid, has been carefully considered, but is not persuasive.

37 CFR 1.2 states that 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.

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[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner is reminded that it is the duty of the applicant to take proper measures to maintain the pendency of petitioner's application. When a Notice of Allowance has been mailed, as here, the only appropriate response is timely payment of the issue and publication fees or submission of a Request for Continued Examination and the required submission under 37 CFR 1.114.

To the extent that petitioner relied on the examiner's assurances that the application would not become abandoned, while such reliance is certainly unfortunate, it does not constitute unavoidable delay. To this end, MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[6] Additionally, 37 CFR 1.2 states that the action of the U.S. 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, as stated previously, the Notice of Allowance and Fee(s) Due and the Notice of Allowability set concurrent but distinct requirements with which petitioner was required to comply. In other words, the mailing of a Supplemental Notice of Allowability did not reset the period for response to the Notice of Allowance and Fee(s) Due.

The U.S. 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.[7] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[8]

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[6] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[7] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[8] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. 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 summary, while the Office is mindful of the circumstances surrounding this application, the showing of record is that petitioner did not exercise a level of care consistent with a reasonably prudent person in relation to his or her most important business. Accordingly, the showing of record does not rise to the level of unavoidable delay.

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(B)

The petition must be dismissed because counsel's deposit account contains insufficient funds to charge the petition fee required by 37 CFR 1.137(b). An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted.[9] Specifically, on October 7, 2009, the deposit account contained $1,419.12, which was insufficient to charge the issue fee, publication fee, petition fee under 37 CFR 1.137(a) and also the petition fee under 37 CFR 1.137(b). Accordingly, the fee under 37 CFR 1.137(b) could not be charged.

In the absence of the petition fee, which is required by law, the USPTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. The petition has already been treated under 37 CFR 1.181 (and 37 CFR 1.137(a)) and determined not to be grantable.

The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[10]

Any renewed petition must be accompanied by the petition fee required under 37 CFR 1.137(b).

It is recommended that the enclosed form be utilized in filing a renewed petition.

Receipt of the issue and publication fees and petition fee under 37 CFR 1.137(a) are acknowledged.[11]

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[9] 37 CFR 1.25(a).

[10] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

A reply should be submitted within two (2) months of the mailing date of this decision.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

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[11] As petitioner requested and obtained consideration under 37 CFR 1.137(a), the fee for a petition under 37 CFR 1.137(a) has been charged to counsel's deposit account.

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition Fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

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

☐ has been filed previously on _____.

☐ is enclosed herewith.

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

☐ has been paid previously on _____.

☐ is enclosed herewith.

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Type or Printed name	Registration Number, If applicable
Address	Telephone Number
Address	

Enclosures:

☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: George Benedict
Serial No.: 11/198,837
Filed: August 5, 2005
Confirmation No.: 1616
For: METHODS AND DEVICES FOR MOVING OPTICAL BEAMS

PATENT APPLICATION
Group Art Unit: 2883
Examiner: Dinh D. Chiem
Attorney Docket No.: BPI-001

Petition to Withdraw Holding of Abandonment
Or
Petition to Revive Unavoidably Abandoned Application
Or
Petition to Revive Unintentionally Abandoned Application

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

10/07/2009 CKHLUK 00000006 190590 11198837
01 FC:2501 755.00 DA
02 FC:1504 300.00 DA
03 FC:2452 270.00 DA

Sir or Madam:

1. The present patent application entitled "Methods and Devices for Moving Optical Beams" was filed on August 5, 2005.

2. On April 18, 2007 a Restriction Requirement was mailed. Claims were divided into Group I, Claims 1-64, and Group II, Claims 65-82. Further Group 1 was divided into Species A-E. The Restriction Requirement stated that "claim 17 is generic" and upon "allowance of a generic claim, applicant will be

Supervisor Font that the application would not be abandoned, and relied on the statement in the Supplemental Notice of Allowability that the applicant would at least have 3 months to pay the fee and address remaining concerns.

11. The abandonment of this case was unavoidable or should be withdrawn. If the abandonment is judged as not unavoidable, the applicant petitions for unintentional abandonment. Please charge any additional fee or credit any overpayment to Deposit Account 19-0590.

Respectfully submitted,

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) on the date shown below.

Signed: Merle P. Garcia
Typed Name: Merle P. Garcia

Date: July 22, 2009

Thomas Schneck
Reg. No. 24,518
Schneck & Schneck
P.O. Box 2-E
San Jose, CA 95109-0005
(408) 297-9733

UNITED STATES 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 Jan-10

SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE CA 95109-0005

COPY MAILED
JAN 19 2010

In re Application of	:	
George Benedict	:	
Application Number: 11/198837	:	DECISION ON PETITION
Filing Date: 08/05/2005	:	
Attorney Docket Number: BPI-001	:	

This is a decision on the renewed petition filed on October 28, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on March 13, 2009, for failure to timely file the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on December 12, 2008, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on June 15, 2009. On July 22, 2009, a petition to withdraw the holding of abandonment and to

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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 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)).

revive the application under 37 CFR 1.137(a) or (b) was filed. On October 7, 2009, the petitions under 37 CFR 1.181 and 1.137(a) were dismissed. The petition under 37 CFR 1.137(b) was also dismissed for lack of the proper petition fee. The issue and publication fees were received.

On October 28, 2009, the subject renewed petition was filed under 37 CFR 1.137(b), accompanied by the proper petition fee.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/198,841	08/05/2005	3625	1950	AMV01-05	8	40	10

CONFIRMATION NO. 1646

CORRECTED FILING RECEIPT

OC000000018323128

26240
E P TREMBLAY & ASSOCIATES PC
30 LOGAN ST
SWANSEA, MA 02777

Date Mailed: 03/20/2006

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)

Gregory M. Lemelson, Roslindale, MA;

Power of Attorney:

Edmond Tremblay Jr--43204

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/198,841

Projected Publication Date: 02/08/2007

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for generating web content

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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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ANTOINETTE G. GIUGLIANO, P.C.
DBA AGG INTELLECTUAL PROPERTY LAW
100 CUMMINGS CENTER, SUITE 213C
BEVERLY, MA 01915

COPY MAILED

SEP 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Greg M. LEMELSON	:	
Application No. 11/198,841	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 0053.0029-000	:	FROM RECORD
	:	

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 21, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because the attorney of record was not appointed by Customer Number 42842, as indicated.

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

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GREG M. LEMELSON
15 BERKSHIRE ROAD
MANSFIELD, MA 02048

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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ANTOINETTE G. GIUGLIANO, P.C.
DBA AGG INTELLECTUAL PROPERTY LAW
100 CUMMINGS CENTER, SUITE 213C
BEVERLY, MA 01915

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Gregory M. LEMELSON	:	
Application No. 11/198,841	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 0053.0029-000	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Antoinette G. Giugliano the sole attorney of record.

Antoinette G. Giugliano has 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 inventor at the address copied below until otherwise properly notified.

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GREG M LEMELSON
15 BERKSHIRE ROAD
MANSFIELD, MA 02048

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
11/198,841	08/05/2005	Gregory M. Lemelson	0053.0029-000

CONFIRMATION NO. 1646

POWER OF ATTORNEY NOTICE

42842
ANTOINETTE G. GIUGLIANO, P.C.
DBA AGG Intellectual Property Law
100 Cummings Center
Suite 213C
Beverly, MA 01915

OC000000037971017

Date Mailed: 09/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/08/2009.

- 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.

/dcgoodwyn/

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

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Faegre & Benson, LLP
Patent Docketing
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of	:	
David M. Goldenberg et al.	:	
Application No. 11/198,846	:	DECISION ON PETITION
Filed: August 8, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 329525	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a signed declaration/affidavit. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1644 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DOUGLAS D. DEMASI, SR.
1214 BEEKMAN ROAD
HOPEWELL JUNCTION, NY 12533

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Douglas D. DEMASI, SR.	:	
Application No. 11/198,854	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2009 and supplemented May 20, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 3, 2009.

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

With respect to item 2: The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given until the required fee is remitted.

With respect to item 3: The petition has not been signed.

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

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

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JAN 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
GOJANOVIC, Darko et al.	:	
Application No. 11/198,865	:	DECISION ON PETITION
Filed: August 05, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

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

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARKO GOJANOVIC**
162 WEST MAIN STREET
WESTBOROUGH MA 01581

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ROBERT E. KREBS
THELEN REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
TOLSON	:	
Application No. 11/198,868	:	DECISION ON PETITION
Filed: August 4, 2005	:	TO WITHDRAW
Attorney Docket No. 034942-000381	:	FROM RECORD
	:	

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 11, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Robert E. Krebs does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

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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J. DAVIS GILMER
TROPIAN, INC.
20813 STEVENS CREEK BLVD
CUPERTINO, CA 95014

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
TOLSON	:	DECISION GRANTING
Application No. 11/198,868	:	STATUS UNDER 37 CFR 1.47(b)
Filed: August 5, 2005	:	
Attorney Docket No. 034942-381	:	

This is in response a petition filed on August 5, 2005 and October 20, 2005. The papers are being treated as a petition to accord this application status under 37 CFR 1.47(b).

The petition is **GRANTED**.

The papers submitted in support of filing on behalf of the nonsigning inventor are copies of the papers submitted in Application No. 10/040,534, wherein rule 47(b) status was granted on March 14, 2003. Additionally, an executed declaration on behalf of the nonsigning inventor was filed in this application on February 27, 2006.

Where status under 37 CFR 1.47 is granted in a first application and the nonsigning inventor does not later join the filing by executing an oath or declaration for the application, and another application (a child application) is later filed claiming benefit of the filing date of the first application and using the declaration of the prior application, status under 37 CFR 1.47 continues to exist in the child application.

37 CFR 1.63(d) (3) states:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> > (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c)[.]

The application papers were not accompanied by a copy of the decision granting a petition under 37 CFR 1.47(b) in the prior application. However, a copy of the decision granting 37 CFR 1.47(b) status in Application No. 10/040,534 will be placed in the file record for this application.

The above-identified application and papers are now in compliance with 37 CFR 1.47(b). This application is hereby accorded rule 1.47(b) status. As provided in 37 CFR 1.47(c), no notice of this application's filing will be forwarded to the nonsigning inventor nor will such notice be published in the Official's Gazette since notice regarding the filing of the prior application was given to the nonsigning inventor.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 7

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Nigel J. Tolson
Application No. 10/040,534
Filed: December 28, 2001
Attorney Docket No.
111228CX3.US
Title: FREQUENCY
SYNTHESIZER FOR DUAL
MODE RECEIVER

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

This is in response to the petition under 37 CFR §1.47(b) [1], filed December 23, 2002.

The above-identified application was filed on December 28, 2001, without an executed oath or declaration and identifying Nigel J. Tolson as the sole inventor. On February 6, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

The original petition was dismissed for failure to meet requirements (4) – (7) above.

---

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

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

With the renewed petition, petitioner has submitted a declaration of facts which corrects each of the previously indicated deficiencies. Petitioner has attested, on his registration number, that he sent a complete copy of the instant application to the non-signing inventor; the non-signing inventor stated that he had received it; the purported invention is directly related to the business of the purported assignee; said purported assignee is the rightful assignee of this invention, and; irreparable damage would result if this petition was not granted.

As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Nigel J. Tolson
5 Brading Way
Puley-on-Thames
Reading, Berks GB RG8 8BS
ENGLAND

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Nigel J. Tolson
Application No. 10/040,534
Filed: December 28, 2001
Attorney Docket No. 111228CX3.US
Title: FREQUENCY SYNTHESIZER FOR DUAL MODE RECEIVER

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

Dear Mr. Tolson:

You are named as the 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 the inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Barbara J. Carter
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Colin J. H. Brenan, et al.	:	
Application No. 11/198,882	:	DECISION GRANTING
Filed: August 4, 2005	:	PETITION
Attorney Docket No. 2119/143	:	

This is a decision on the petition filed September 1, 2005, requesting that the above-identified application be accorded a filing date of August 4, 2005, rather than the presently accorded date of August 5, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on August 4, 2005 pursuant to 37 CFR 1.10. The "date-in" on the copy of the Express Mail label receipt no. EV401278661US is illegible. The same Express Mail number is found on the original application papers located in the official file.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, 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. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner's evidence shows that the package in question was accepted on August 4, 2005, not August 5, 2005. Since the date stamp from the "Fort Point Station" in Boston Massachusetts corroborates a "date-in" of August 4, 2005, the application is entitled to the requested filing date.

This application file is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **August 4, 2005** and issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3223. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/198,882	08/04/2005	1753	2780	2119/143	27	40	5

CONFIRMATION NO. 8545

UPDATED FILING RECEIPT

OC000000018003973

Barbara J. Carter
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Date Mailed: 02/07/2006

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)

Colin J.H. Brenan, Marblehead, MA;
Jamie Cho, Stoughton, MA;
Javier Garcia, Lexington, MA;
Robert Hess, Arlington, MA;
Tanya S. Kanigan, Winchester, MA;
Arrin Katz, Cambridge, MA;
Namyong Kim, Singapore, SINGAPORE;
John Linton, Lincoln, MA;
Shailesh Srivastava, Medway, MA;
Karl Yoder, Stoneham, MA;

Power of Attorney: The patent practitioners associated with Customer Number **002101**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/608,231 09/09/2004

Foreign Applications

If Required, Foreign Filing License Granted: 10/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/198,882

Projected Publication Date: 05/18/2006

Non-Publication Request: No

Early Publication Request: No

Title

Coating process for microfluidic sample arrays

Preliminary Class

204

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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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of

CALOS, Michele P.
Application No. 11/198,885
Filed: August 4, 2005
Attorney Docket No. **POET-001CIP**

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 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 Bret E. Field on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHELE P. CALOS**
1491 BENITO AVENUE
BURLINGAME, CA 94010

cc: **EDWARD J. BABA, ESQ.**
MORGAN LEWIS & BOCKIUS LLP
ONE MARKET STREET, SPCAR STREET TOWER
SAN FRANCISCO, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS, LLP (SF)
ONE MARKET/SPEAR STREET TOWER, SUITE 2800
SAN FRANCISCO, CA 94105

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AUG 19 2008

In re Application of	:	
CALOS, Michele P.	:	
Application No. 11/198,885	:	DECISION ON PETITION
Filed: August 4, 2005	:	TO WITHDRAW
Attorney Docket No. POET-001CIP	:	FROM RECORD
	:	

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.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to MORGAN LEWIS & BOCKIUS, LLP (SF) has been revoked by the assignee of the patent application on July 10, 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: BOZICEVIC FIELD & FRANCIS, LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: John C. Walker	: DECISION ON REQUEST FOR
Patent Number	: 7601886	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,886	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph J. Settelmayer	:	
Application No. 11/198,891	:	ON PETITION
Filed: August 4, 2005	:	
Attorney Docket No. YAK 392	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 21, 2008 to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed August 2, 2006. A Notice of Abandonment was mailed on March 8, 2007.

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

This application file is being referred to Technology Center Art Unit 3782 for appropriate action by the Examiner in the normal course of business on the amendment received February 6, 2007.

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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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of
Yona Ben-David
Application No. 11/198,897
Filed: August 8, 2005
Attorney Docket No. P-4859-US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2006, 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 18, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 July 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 750; and (3) a construed statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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.

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

This application is being referred to Technology Center AU 2855 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Robert Herbelin et al.	:	
Application No. 11/198,903	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 17736-003001	:	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 October 31, 2006.

The request is **APPROVED**.

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

The request was signed by John c. Phillips on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Herbelin**
21010 Union Street
Wildomar, CA 92595

cc: **Edward Keyes, President**
World Talk Radio, Inc.
9606 Aero Drive, Suite 1400
San Diego, CA 92123-1872

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/198,903	08/05/2005	Robert Herbelin	17736-003001

CONFIRMATION NO. 8873

OC000000024693578

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 07/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2006.

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

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

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ANDERSON & JANSSON, L.L.P.
9501 N. CAPITAL OF TX HWY. #202
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	
Application No. 11/198,904	:	ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. 0305-003-003-000000	:	

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

The present petition contains the typed name of the practitioner; however, it lacks a signature as required in 37 CFR 1.4(d). Although the certificate of mailing, which appears on the first page of the petition bears the signature of the practitioner, two signatures are required, one for the paper and one for the certification. See MPEP 512(A).

Pursuant to 37 CFR 1.4(d):

> (1) Handwritten signature. Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:
>
> (i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or
>
> (ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

The Office cannot accept the petition under 37 CFR 1.137(b) because petitioner failed to comply with the signature requirement. Consequently, the present petition will not be addressed on the merits until petitioner files a "renewed" petition under 37 CFR 1.137(b) signed by an appropriate person in compliance with 37 CFR 1.4. No addition fee is required for filing a "renewed" petition.

The "renewed" petition under 37 CFR 1.137(b) 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 1.137(b)."

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

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ANDERSON & JANSSON, L.L.P.
9501 N. CAPITAL OF TX HWY. #202
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of :
Jung et al. :
Application No. 11/198,904 :
Filed: August 5, 2005 :
Attorney Docket No. 0305-003-003-000000 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed on September 1, 2005, which set a two-month extendable period to reply. The above-identified application became abandoned on November 2, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Office of Initial Patent Examination.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: John Klocke	: DECISION ON REQUEST FOR
Patent Number	: 7628898	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,905	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1160** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TODD B. BUCK, PH.D.
CASTELLANO MALM FERRARIO & BUCK LLC
8500 LEESBURG PIKE, SUITE 402
VIENNA, VA 22182

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MAR 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Quin Chou et al	:	
Application No. 11/198,924	:	DECISION ON PETITION
Filed: August 4, 2005	:	TO WITHDRAW
Attorney Docket No. 0618.027.0004	:	FROM RECORD
	:	

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 2, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because 37 CFR 10.40 states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" Additionally, 37 CFR 10.40 states, "i[f] paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because: [. . .]" Reasons a practitioner can permissively withdraw follow the later quotation.

Petitioner states " I, Bret E. Field, attorney of record in the subject patent application, hereby request that the Patent Office approve this request for withdrawal from representation of the applicant of the above-identified application as requested by the applicant's instructions of November 30, 2005 (copy attached)." The Office record does not show the any instructions from applicants; therefore, 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 for Withdrawal 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 Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Robert D. Berahovich	: DECISION ON REQUEST FOR
Patent Number	: 7572600	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **707** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: Bran Ferren	: DECISION ON REQUEST FOR
Patent Number	: 7668069	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,938	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **940** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

Mail Date: 05/18/2010

Applicant : Bran Ferren
Patent Number : 7668069
Issue Date : 02/23/2010
Application No : 11/198,938
Filed : 08/05/2005

: 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 **1025** 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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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	: David L. Fritsche	: DECISION ON REQUEST FOR
Patent Number	: 7578642	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1048** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OCT 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Andreas Wardak, et al.	:	
Application No. 11/198,969	:	DECISION ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 074623.0118	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 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 June 22, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 20, 2009. Accordingly, the date of abandonment of this application is June 23, 2009. The Notice of Abandonment was mailed July 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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 Johnson at (571) 272-2991.

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

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KLAUS BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Gerd Kohlmoos	:	
Application No. 11/198,977	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. NI 167	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2008, to revive the above-identified application.

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 4, 2007, which set a shortened statutory period for reply of three (3) months. A six (6) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 5, 2007. A Notice of Abandonment was mailed January 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 Notice of Appeal and fee of $255, (2) the petition fee of $770, 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 3643 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Edward B. Madsen	: DECISION ON REQUEST FOR
Patent Number	: 7581541	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/198,994	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **528** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 05/18/2010

Applicant : Edward B. Madsen
Patent Number : 7581541
Issue Date : 09/01/2009
Application No : 11/198,994
Filed : 08/08/2005

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

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

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

The patent term adjustment has been determined to be **611** 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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Bohan Mathers
P.O. Box 17707
Portland, ME 04112-8707

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JAN 3 0 2009

OFFICE OF PETITIONS

In re Application of	:	
James Anthony Maffei	:	
Application No. 11/199,035	:	DECISION ON PETITION
Filed: August 8, 2005	:	TO WITHDRAW
Attorney Docket No. 05-094	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James Anthony Maffei
P.O. Box 18
Sebago, ME 04029

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Paper No.

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TECHNOLOGY CENTER 2100

Craig A. Slavin
HENRICKS, SLAVIN & HOLMES
840 Appollo Street, Suite 200
El Segundo, CA 90245

In re Application of:
William Calfas, et al.
Application No. 11/199,039
Filed: August 8, 2005
For: PROTECTIVE COVER AND APPARATUS INCLUDING THE SAME

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. ∋1.102(c) AND MPEP ∋708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed August 8, 2005, under 37 C.F.R. ∋1.102(c) and M.P.E.P. ∋708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. ∋1.102 and in accordance with M.P.E.P. ∋708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from William Calfas establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

For James R. Matthews

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/199,049	08/08/2005	Steven P. Bitler	12969-3	1376

23676 7590 11/16/2007
SHELDON MAK ROSE & ANDERSON PC
100 East Corson Street
Third Floor
PASADENA, CA 91103-3842

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
11/16/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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wk

Mailed: 11-16-07

In re application of	:	
Bitler et. al.	:	DECISION ON
Serial No. 11/199,049	:	PETITION
Filed: August 8, 2005	:	
For: Polymeric Thickeners for Oil-Containing Compositions		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed June 12, 2007.

On July 11, 2007 applicant raised the issue of the final rejection being premature. Applicant asserts that a number of rejections are based on an Examiner's conclusion that is based on an assertion that is factually incorrect and has no basis in the record. Applicant also requests that the Office Action mailed on June 12, 2007 be reset.

DECISION

A review of the circumstances indicates that the final rejection of June 12, 2007 was not proper.

The petition for withdrawal of finality is **GRANTED.**

The finality of the office action on June 12, 2007 is withdrawn.

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

T.H. P. Richardson
SHELDON MAK ROSE & ANDERSON PC
100 East Corson Street
Third Floor
PASADENA CA 91103-3842

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/199,049	08/08/2005	Steven P. Bitler	12969-3	1376

23676 7590 01/29/2008
SHELDON MAK ROSE & ANDERSON PC
100 East Corson Street
Third Floor
PASADENA, CA 91103-3842

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
01/29/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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wk

Mailed: 1-29-08

In re application of	:	
Steven P. Bitler	:	DECISION ON
Serial No. 11/199,049	:	PETITION
Filed: August 8, 2005	:	
For: Polymeric Thickeners for Oil-Containing Compositions	:	

This is a decision on the petition filed on January 14, 2008. The petition requests that the Examiner correct errors in the office Action mailed December 7, 2007 and to reset the period for reply to run from the date the error is corrected.

710.06 Situations When Reply Period Is Reset or Restarted

Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

Where for any reason it becomes necessary to remail any action (MPEP § 707.13), the action should be correspondingly redated, as it is the remailing date that establishes the beginning of the period for reply. **For Image File Wrapper (IFW) processing, see IFW Manual.

A supplementary action after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited, establishes a new date from which the statutory period runs.

If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.

The Examiner issued a non-final office action on December 7, 2007 rejecting the claims under 35 U.S.C 103 and addressing the declaration of Dr. Bitler. Applicant asserts that the Office Action does not provide any reason for disagreeing with the facts, evidence and arguments presented by Applicant and that the Office Action ignores the evidence provided by the documents incorporated by reference in the specification.

While applicant may disagree with the Examiner's characterization of the declaration submitted or interpretation of statements made in the specification, this does not affects applicant's ability to reply to the Office action.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **DISMISSED**.

The time for response continues to run from the mail date of the office action dated December 7, 2007.

Jacqueline M. Stone/kc

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

T.H.P. Richardson
SHELDON MAK ROSE & ANDERSON PC
100 East Corson Street
Third Floor
PASADENA CA 91103-3842

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.
11/199,049	08/08/2005	Steven P. Bitler	12969-3	1376

23676 7590 03/26/2009
SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA, CA 91103-3842

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
03/26/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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3/26/09

wk

In re application of	:	
Bitler et al.	:	DECISION ON
Serial No. 11/199,049	:	PETITION
Filed: August 08, 2005	:	
For: Polymeric Thickeners For Oil-Containing Compositions	:	

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on March 4, 2009 to withdraw the finality of the Office Action mailed on February 27, 2009.

Petitioner asserts that no clear issue has been developed between the Examiner and the Applicant, and that the finality of the office action should be withdrawn. Petitioner further asserts that the Examiner has not answered the arguments put forward by the applicant including the declaration that was filed. Petitioner additionally cites MPEP 706.07, 707.07(f) and 2144.08.

If new facts or reasons are presented such as to convince the examiner that the previously rejected claims are in fact allowable then the final rejection should be withdrawn. This is not the situation here. A review of the record indicates there have been 5 office actions, one advisory action and one interview. While applicant may disagree with the Examiner's characterization of the declaration submitted or interpretation of statements made in the specification, it does not necessarily mean that no clear issue has been developed.

DECISION

The petition for withdrawal of finality is **DISMISSED.**

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

T.H.P. Richardson
SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA CA 91103-3842

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OFFICE OF PETITIONS

ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN, MA 02719

In re Application of	:	
Stephen S. Murphy	:	
Application No.: 11/199,063	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No: C04-25	:	

This is in response to the petition under 37 CFR 1.137(b) filed May 15, 2006.

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

On August 30, 2005, a "Notice to File Corrected Application Papers " was mailed by the Office allowing a two-month period for reply, and requiring replacement drawings to be filed. Extension of time were available pursuant to 37 CFR 1.136(a). No response was noted as being received within in the allowable period and the application became abandoned on November 1, 2005. A Notice of Abandonment was mailed on May 9, 2006.

The replacement drawings were filed May 15, 2006, are noted.

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

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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ROBERTS, MLOTKOWSKI & HOBBES
P. O. BOX 10064
MCLEAN VA 22102-8064

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OFFICE OF PETITIONS

In re Application of Dirk Zielonka Application No.11/199,082 Filed: August 8, 2005 Attorney Docket Number: 740116-584 Title of Invention: Cleaning Body Composed of High-Grade Steels	: : : : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on February 1, 2006, requesting that the above-identified application be accorded a filing date of August 8, 2005, rather than the presently accorded filing date of August 9, 2005.

Petitioner contends the application was deposited in Express Mail service on August 8, 2005. In support, petitioner supplied a copy of Express Mail receipt No. EO911699985US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). A review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on August 8, 2005.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **August 8, 2005** and issuance of a corrected Filing Receipt.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT 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
11/199,082	08/08/2005	1744	500	740116-584	2	2	1

CONFIRMATION NO. 1743

CORRECTED FILING RECEIPT

OC000000018262246

25570
ROBERTS, MLOTKOWSKI & HOBBES
P. O. BOX 10064
MCLEAN, VA 22102-8064

Date Mailed: 03/13/2006

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)

Dirk Zielonka, Bielefeld, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **22204**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/181,249 07/16/2002 ABN
which is a 371 of PCT/EP00/13304 12/28/2000

Foreign Applications

GERMANY 100 01 728.2 01/17/2000

If Required, Foreign Filing License Granted: 09/02/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/199,082

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Cleaning body composed of high-grade steels

Preliminary Class

015

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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ROCKWALL TX 75087

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OFFICE OF PETITIONS

In re Application of	:	
Adam D. Wright et al	:	
Application No. 11/199,093	:	DECISION ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 2004-IP-016381	:	

This is a decision on the petition, filed April 2, 2008, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of August 29, 2007, which set a three (3) month shortened statutory period for reply. A reply was due on or before November 29, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of and acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on November 29, 2007 of, *inter alia,* a reply in the form of an amendment. A copy of the previously submitted reply accompanies the petition.

The reply acknowledged as having been received in the USPTO on November 29, 2007, is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt (in this case an acknowledgement receipt) which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on November 29, 2007.

This application is being referred to Technology Center AU 3672 for appropriate action in the normal course of business on the reply received with the petition.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Kenneth W. Float
2095 Hwy. 211 NW, # 2F
Braselton GA 30517

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OFFICE OF PETITIONS

In re Application of	:	
Frances R., Williams, et al.	:	
Application No. 11/199,102	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 32515	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 26, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 27, 2009. The Notice of Abandonment was mailed June 9, 2009.

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

The 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). The amendment filed herewith petition ***does not*** prima facie place the application in condition for allowance.

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

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Ryan A. Schneider**
Troutman Sanders LLP
600 Peachtree Street, NE
Suite 5200
Atlanta, GA 30308

Enclosed: Examiner's Advisory Action PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	11/199,102	WILLIAMS ET AL.	
	Examiner	Art Unit	
	ROSE M. MILLER	2856	

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

THE REPLY FILED 21 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 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) *1-4 and 15-18* 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: *1-4 and 15-18*.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: *5-14*.

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: _____.

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BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E.
SUITE 5200
ATLANTA GA 30308-2216

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OFFICE OF PETITIONS

In re Application of	:	
Frances R., Williams, et al.	:	
Application No. 11/199,102	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 32515	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 26, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 27, 2009. The Notice of Abandonment was mailed June 9, 2009.

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

The 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). The amendment filed herewith petition ***does not*** prima facie place the application in condition for allowance.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Examiner's Advisory Action PTOL-303 and Notice of Non-Compliant Amendment PTOL-324

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	11/199,102	WILLIAMS ET AL.	
	Examiner	Art Unit	
	ROSE M. MILLER	2856	

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

The amendment document filed on *11/05/09* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Continuation of 4(e) Other: The proposed amendment to the claims is written as if the amendment filed 21 September 2009 had been entered. As this amendment was denied entry because it did not place the application in condition for allowance, it cannot be relied upon for the basis of this amendment. Therefore, the basis for this amendment SHOULD be the claims as found in the application at the time of the Final Rejection. As Applicant failed to properly identified the amendments to the claims as based upon the claims at the time of the Final Rejection, this amendment cannot be entered at this time and is considered to be an improper amendment..

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/199,102	Applicant(s) WILLIAMS ET AL.	
	Examiner ROSE M. MILLER	Art Unit 2856	

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

THE REPLY FILED 05 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 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: _____.

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JAN 29 2010

OFFICE OF PETITIONS

TROUTMAN SANDERS LLP
5200 BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E.
SUITE 5200
ATLANTA GA 30308-2216

In re Application of	:	
Frances R. Williams, et al.	:	
Application No. 11/199,102	:	DECISION ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. GTRC3215	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 26, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 27, 2009. The Notice of Abandonment was mailed June 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2856 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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

Mail Date: 06/29/2010

Applicant	: Teppei Hanano	: DECISION ON REQUEST FOR
Patent Number	: 7648163	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/199,148	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/199,170	08/09/2005	Yong Gyu Lyu	1116511-00172	2084

7590 02/27/2008
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER
BERTHEAUD, PETER JOHN

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

L Helena
Patent Publication Branch
Office of Data Management

Adjustment date: 02/29/2008 KKING1
08/10/2005 SMINASS1 00000067 11199170
02 FC:1111 -500.00 OP

Repln. Ref: 02/29/2008 KKING1 0015551500
DA#:232185 Name/Number:11199170
FC: 9204 $500.00 CR

FORM PET651G (Rev. 08/07)

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BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

COPY MAILED

DEC 2 4 2008

In re Application of	:	
Maurice **DESCHAMPS, et al.**	:	
Application No. 11/199,172	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO WITHDRAW
Attorney Docket No. **PAT 59327-2**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 15, 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 Neil Henderson on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Final Office action mailed October 9, 2008 that requires a reply from the applicant.

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

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **MAURICE DESCHAMPS**
220 OAK HILL DRIVE
BRANTFORD, ONTARIO N3T 5L7
CANADA

cc: **1592834 ONTARIO INC.**
205 OAKHILL DRIVE, R.R. #4
BRANTFORD, ONTARIO N3T 5L7
CANADA

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OVERLAND PARK KS 66251-2100

COPY MAILED

SEP 18 2007

OFFICE OF PETITIONS

Applicant: Kamran Etemad
Appl. No.: 11/199,178
Filing Date: August 9, 2005
Title: SYSTEM AND METHOD FOR HANDOFF BETWEEN BASE STATIONS
Attorney Docket No.: 100773.55250US
Pub. No.: 2006/0035639 A1
Pub. Date: February 16, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 24, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication does not include the claims filed with the application, but with the claims of another application that were improperly submitted in the instant application.

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

The request for corrected publication, received on August 24, 2006, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

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

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed: October 11, 2007

SPRINT NEXTEL CORPORATION
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK KS 66251-2100

Applicant: Etemad et al.
Appl. No.: 11/199,178
Filing Date: August 9, 2005
Title: SYSTEM AND METHOD FOR HANDOFF BETWEEN BASE STATIONS
Attorney Docket No.: 100773.55250US
Pub. No.: US 2006/0035639 A1
Pub. Date: February 16, 2006

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on October 9, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as "Document for an existing application", which is entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

Adjustment date: 10/11/2007 RCLEMONS
10/10/2007 INTEFSW 00000232 210765 11199178
01 FC:1504 300.00 CR

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

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/199,203	08/09/2005	Dennis Jones	029370.00015	1562

4372 7590 05/28/2008
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER
WEIER, ANTHONY J

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
05/28/2008	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):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com

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wk

Mailed: 5-28-08

In re application of	:	
Dennis Jones.	:	DECISION ON
Serial No. 11/199,203	:	PETITION
Filed: 08/09/2005	:	
For: Confectionery Product Made Of Protein And Carbohydrate Materials Present In A Relative Weight Ratio Higher Than 1	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed April 8, 2008, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the documents submitted on December 13, 2007 be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase ''and returned '' from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase ''and return '' from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

11/199,203

The images will be removed from the Official file.

Jacqueline M. Stone

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

Patricia D. Granados
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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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	: Greg L. Cannon	: DECISION ON REQUEST FOR
Patent Number	: 7652780	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **901** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Greg L. Cannon
Patent Number : 7652780
Issue Date : 01/26/2010
Application No : 11/199,222
Filed : 08/09/2005

: 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 **921** 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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Pablo Umana, et al. :
Application No. 11/199,232 :
Filed: August 9, 2005 :
Attorney Docket No. 1975.0020002/JMC/TJS:

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision in response to the petition under 37 CFR 1.182, filed July 30, 2008, requesting expedited consideration of the simultaneously filed 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 the prior-filed applications set forth in the concurrently filed amendment.

The petition under 37 CFR 1.182 is **GRANTED**. A decision on the petition under 37 CFR 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) follows.

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.

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 petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is **GRANTED.**

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. 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 1633 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Sherry D. Brinkley
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
11/199,232	08/09/2005	1633	3250	1975.0020002/JMC/TJS	37	2

CONFIRMATION NO. 1722

CORRECTED FILING RECEIPT

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC000000031350260

Date Mailed: 08/04/2008

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

Applicant(s)

Pablo Umana, Zurich, SWITZERLAND;
Joel Jean-Mairet, Zurich, SWITZERLAND;
James E. Bailey, Zurich, SWITZERLAND, Deceased;

Assignment For Published Patent Application

GlycArt Biotechnology AG, Zurich, SWITZERLAND

Power of Attorney: The patent practitioners associated with Customer Number 28393

Domestic Priority data as claimed by applicant

This application is a CON of 10/211,554 08/05/2002 ABN
which claims benefit of 60/309,516 08/03/2001
This application 11/199,232
is a CIP of 10/633,697 08/05/2003
which is a DIV of 09/294,584 04/20/1999 PAT 6,602,684
which claims benefit of 60/082,581 04/20/1998

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/199,232**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Antibody glycosylation variants having increased antibody-dependent cellular cytotoxicity

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Jon Daley	: DECISION ON REQUEST FOR
Patent Number	: 7579615	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **34** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Phillip Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7599457	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,287	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **783** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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SEP 28 2006

OFFICE OF PETITIONS

In re Patent No. 7,030,722	:	
Issue Date: April 18, 2006	:	
Application No. 11/199,288	:	DECISION ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. P/4766-2	:	

This is a decision on the petition under 37 CFR 1.182, filed August 11, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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EAST HANOVER NJ 07936-1080

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APR 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Ian Francis Hassan et al	:	
Application No. 11/199,291	:	DECISION GRANTING PETITION
Filed: August 8, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4-30843E	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 20, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 17, 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 1617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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MAY 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,566,705	:	DECISION ON REQUEST FOR
Hassan et al.	:	RECONSIDERATION OF
Issue Date: July 28, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 11/199,291	:	NOTICE OF INTENT TO ISSUE
Filed: August 8, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No.4-30843E	:	

This is a decision on the petition filed on August 13, 2009, which is being treated as a renewed 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 eighty-one (81) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified (145)days is **GRANTED to the extent indicated herein.**

It is noted that patentees failed to account for the filing of the notice of appeal on October 20, 2008. The Office reminds patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 95 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, October 20, 2008, and ending on the day before the Request for Continued Examination was filed, January 22, 2009. Thus, the B delay is 72 days (167 - 95).

Patentees' argument that the 41 days of reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10) for the filing of a letter of candor on June 18, 2009, are unwarranted is noted and is persuasive. The 41 days of reduction is being removed accordingly.

A review of the application file history reveals that the patent term adjustment should be reduced pursuant to 37 CFR 1.704(c)(10) by a period of 10 days for the filing of an Information Disclosure Statement on March 31, 2009, and a period of 26 days for the filing of a petition to withdraw from issue under 37 CFR 1.313 and Request for Continued Examination on April 20, 2009, after the mailing of a Notice of Allowance on February 24, 2009.

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that patentees filed the Information Disclosure Statement(IDS) after the mailing of the notice of allowance and that IDS was not accompanied by the statement under 37 CFR 1.704(d). It is noted that the period of reduction to the patent term adjustment is 10 days, beginning on the date the Information Disclosure Statement was filed, March 31, 2009, ending on the date the response to the Information Disclosure Statement was mailed, April 8, 2009. Accordingly, a period of reduction of 10-days, will be entered.

Further, it is undisputed that patentees filed a petition to withdraw from issue and Request for Continued Examination on April 20, 2009, after the mailing of the notice of allowance and after payment of the issue fee. It is noted that the period of reduction to the patent term adjustment is 26 days, beginning on the date the petition to withdraw from issue and Request for Continued Examination were filed, April 20, 2009, ending on the date the Notice of Allowance was mailed, May 15, 2009. Accordingly, a period of reduction of 26-days, will be entered.

It is noted that the filing of the terminal disclaimer has no effect on the determination of patent term adjustment *set forth* on this patent. It is true that 35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

Moreover, 37 CFR 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

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

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

prevent patentees from enforcing the days of patent term adjustment awarded.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of one hundred and forty-five (145) days, (363 days of Office delay - 218 (91 + 91 + 10 + 26) days of applicant delay - 0 of overlap).

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

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred and forty-five (145) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,566,705 B2

DATED : Jul. 28, 2009

INVENTOR(S) : Hassan 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 (68) days

Delete the phrase "by 68 days" and insert – by 145 days--

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NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of	:	
Ryou Ono	:	
Application No. 11/199,297	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 20295/0208647-US0	:	

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

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 March 27, 2007, 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 May 28, 2007. See MPEP 1215.04.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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. 12/062,990.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 01-06

Paper No: __

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FEB 0 2 2006

OFFICE OF PETITIONS

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

In re Application of	:	
Pantages, et al.	:	
Application No. 11/199,338	:	DECISION ON PETITION
Receipt/Filing Date: 8 August, 2005	:	
Attorney Docket No. 7969US01	:	

This is a decision on the petition filed on 12 September, 2005, and considered herein under 37 C.F.R. §1.53.

The instant petition is **DISMISSED** without prejudice.

BACKGROUND

The instant application was deposited on 8 August, 2005.

On 30 August, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Application (the Notice) stating that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. 113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted, or that they were not necessary for

a filing date; or

- submit the drawings and accept the date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 12 September, 2005, Petitioner submitted the instant petition, including therewith, inter alia, a date-stamped ("080805") receipt card (see: MPEP §503[1]) seeking an 8 August, 2005, filing date for the application. Petitioner avers therein that the figures were included on filing.

ANALYSIS

A search of the official file reveals that:

- on 8 August, 2005, Petitioner deposited the instant application;

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

- the stamped receipt card evidences the following, in pertinent part:

* * *

> 2. Fee Transmittal (1 page in duplicate)
> 3. Declaration and Power of Attorney (3 pages)
> 4. Specification (12 pages) 36 Claims (5 pages) Abstract (1 pages) Drawings (11 pages) (Emphasis supplied)

* * *

While Petitioner avers that 13 sheets of drawings were submitted, the receipt card evidences instead receipt by the Office of only 11 sheets of drawings.

Petitioner avers further that the receipt card–which Petitioner prepared and supplied for use by the Office on deposit–was in error and that 13 sheets of drawings were deposited.

This averment is unsupported by the record–to wit: documents provided by Petitioner.

CONCLUSION

The petition is **dismissed** and Petitioner may–on renewed petition–represent to the Office which were the 11 sheets of drawings that were present on deposit.

Petitioner is given one (1) month to correct this deficiency, and the period is not extendable under 37 C.F.R. 1.136.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

---

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-06

Paper No: __

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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MAR 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Pantages, et al.	:	
Application No. 11/199,338	:	DECISION ON PETITION
Receipt/Filing Date: 8 August, 2005	:	
Attorney Docket No. 7969US01	:	

This is a decision on the petition filed on 6 March, 2006, and considered herein under 37 C.F.R. §1.53.

The instant petition is **DISMISSED**.

BACKGROUND

The instant application was deposited on 8 August, 2005.

On 30 August, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Application (the Notice) stating that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. 113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted, or that they were not necessary for

a filing date; or

- submit the drawings and accept the date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 12 September, 2005, Petitioner submitted the original petition, including therewith, inter alia, a date-stamped ("080805") receipt card (see: MPEP §503[1]) seeking an 8 August, 2005, filing date for the application. Petitioner avers therein that the figures were included on filing, however, that petition was dismissed on 2 February, 2006, for Petitioner's failure to indicate the drawings deposited on filing. Petitioner was given one month to correct this oversight.

Petitioner again has failed to indicate the drawings deposited on filing.

This is the last opportunity Petitioner will be given to correct this deficiency.

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[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

ANALYSIS

A search of the official file reveals that:

- on 8 August, 2005, Petitioner deposited the instant application;

- the stamped receipt card evidences the following, in pertinent part:

* * *

> 2. Fee Transmittal (1 page in duplicate)
> 3. Declaration and Power of Attorney (3 pages)
> 4. Specification (12 pages) 36 Claims (5 pages) Abstract (1 pages) Drawings (11 pages) (Emphasis supplied)

* * *

Petitioner avers that:

- 13 sheets of drawings were submitted, the receipt card evidences instead receipt by the Office of only 11 sheets of drawings; and

- the receipt card–which Petitioner prepared and supplied for use by the Office on deposit–was in error and that the transmittal accurately reflected that 13 sheets of drawings were deposited.

Petitioner is reminded that the transmittal is not the document date-stamped by the Office as indicating the materials received on deposit of the application.

Therefore, Petitioner's averment is unsupported by the record–to wit: the date-stamped receipt card.

CONCLUSION

The petition is **dismissed** and Petitioner may–on renewed petition–represent to the Office which were the 11 sheets of drawings that were present on deposit.

Petitioner is given one (1) month to correct this deficiency, and the period is not extendable under 37 C.F.R. 1.136.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

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[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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JJGJR.: 06-06

Paper No: __

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Pantages, et al.	:	
Application No. 11/199,338	:	DECISION ON PETITION
Receipt/Filing Date: 8 August, 2005	:	
Attorney Docket No. 7969US01	:	

This is a decision on the (renewed) petition filed on 14 April, 2006, and considered herein under 37 C.F.R. §1.53.

The instant petition is **GRANTED**.

BACKGROUND

The instant application was deposited on 8 August, 2005.

On 30 August, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Application (the Notice) stating that the application had not been accorded a filing date because it had been deposited without drawings as required under 35 U.S.C. 113 (first sentence).

OIPE indicated that Petitioner might:

- contend via petition that the drawings were submitted, or that they were not necessary for a filing date; or
- submit the drawings and accept the date of submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 12 September, 2005, Petitioner submitted the original petition, including therewith, inter alia, a date-stamped ("080805") receipt card (see: MPEP §503[1]) seeking an 8 August, 2005, filing date for the application. Petitioner avers therein that the figures were included on filing, however, that petition was dismissed on 2 February, 2006, for Petitioner's failure to indicate the drawings deposited on filing. Petitioner was twice given one month to correct this oversight.

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

ANALYSIS

A search of the official file reveals that:

- on 8 August, 2005, Petitioner deposited the instant application;

- the stamped receipt card evidences the following, in pertinent part:

* * *

> 2. Fee Transmittal (1 page in duplicate)
> 3. Declaration and Power of Attorney (3 pages)
> 4. Specification (12 pages) 36 Claims (5 pages) Abstract (1 pages) Drawings (11 pages) (Emphasis supplied)

* * *

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including 11 sheets of drawings (Figs. 1 - 16), as described in the specification, was deposited with the Office on 8 August, 2005, and the 11 sheets of drawings (Figs. 1 - 16), as described in the specification, subsequently were misplaced in the Office.

Accordingly, the application, including 11 sheets of drawings (Figs. 1 - 16), as described in the specification, is entitled to a filing date of 8 August, 2005.

The Notice mailed on 30 August, 2005, was sent in error and is hereby **vacated** to the extent that it stated that the application was filed omitting drawings, specifically 11 sheets of drawings (Figs. 1 - 16), as described in the specification, and that the application was not to be accorded a filing date.

CONCLUSION

The petition is **granted** and the petition fee waived and was not charged.

This application is released to OIPE for further processing with a filing date of 8 August, 2005, for the entire application with pages 1 - 18 of the specification (description, claims, abstract), and 11 sheets of drawings (Figs. 1 - 16), as described in the specification, using:

- **pages 1 - 18 of the specification (description, claims, abstract) deposited on 8 August, 2005; and**

- **and 11 sheets of drawings (Figs. 1 - 16), as described in the specification deposited**

on 4 April, 2006; and further

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 8 August, 2005, and reflecting therein that 18 pages of specification (description, claims, abstract) and 11 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

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

NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 Gunbarrel Avenue
Boulder, CO 80301

Mail Date: 04/20/2010

Applicant	: Darius Eghbal	: DECISION ON REQUEST FOR
Patent Number	: 7657294	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

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

FOLEY & LARDNER LLP
321 N. CLARK STREET, SUITE 2800
CHICAGO, IL 60610

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of
Cecelia PEARSON, et al.
Application No. 11/199,372
Filed: August 8, 2005
Attorney Docket No. **1280-COM1101**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **FOLEY & LARDNER, LLP** has been revoked by the assignee of the patent application on February 5, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: **LARSON NEWMAN ABEL & POLANSKY, LLP.**
5914 WEST COURTYARD DRIVE, SUITE 200
AUSTIN, TX 78730

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 28 2005

J. ANDREA PARK, ESQ.
SUITE 1508
421 W. HURON STREET
CHICAGO IL 60610

In re Application of	:
Mark O. Henry et al	:
Serial No.: 11/199,394	: PETITION TO MAKE SPECIAL
Filed: August 8, 2005	:
Attorney Docket No.: 62318.01US2	:

This is in response to applicants' petition filed August 8, 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. Therefor 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 William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER, LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

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OFFICE OF PETITIONS

In re Application of :
Kristine E. Lichtscheidl, et. al. :
Application No. 11/199,398 : ON PETITION
Filed: August 8, 2005 :
Attorney Docket No. 048675-0160 :

This is a decision on the petition under 37 CFR 1.137(a), filed May 31, 2007, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Eric M. Bram appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted

The petition is **DISMISSED.**

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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 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). The instant petition lacks item (3).

A Restriction/Election Requirement was mailed on September 15, 2006, setting a one month or thirty day shortened statutory period within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on October 16, 2006.

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.

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).

Petitioner should consider filing 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 prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). Effective October 2, 2008, an unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620[1] petition fee. A courtesy copy of a Petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

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

[1] Finance records show that petitioner submitted $1,500 for treatment of the instant petition on May 31, 2007. However, a petition under 37 CFR 1.137(a) requires a petition fee of $250. Therefore, petitioner may request that the remaining amount of $1,250 be applied towards the unintentional petition under 37 CFR 1.137(b) and submit the balance of $370.

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).

Additionally, the Office acknowledges receipt of a Change of Correspondence Address filed on April 9, 2007. However, it cannot be accepted since it fails to contain the signature of an attorney of record, the inventor or the assignee, who has complied with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment * * * For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
>
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
>
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, *e.g.*, an officer of the assignee.
>
> (c) For patent matters only:
>
> (1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.
> (2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

Any further petition to revive must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration

request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

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

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

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

The Centralized facsimile number is **(571) 273-8300**, and documentation to this number should be addressed to the Office of Petitions.

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

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

Enclosures: Privacy Act Statement
Petition under 37 CFR 1.137(b) (Form No. PTO/SB/64)

PTO/SB/64 (10-08)
Approved for use through 11/30/2008. 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)

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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RICE, PLLC
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P.O. BOX 7037
ATLANTA GA 30357-0037

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APR 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Sutherland	:	DECISION ON APPLICATION
Application No. 11/199,401	:	FOR
Filed: August 8, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. R029 1350.1	:	
(7196-US-01)	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT (37 C.F.R. 1.705(b))," filed November 29, 2007. In effect, applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from ninety-four (94) days to at least one hundred forty-two (142) days.

The application for patent term adjustment is **DISMISSED**.

On September 24, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 94 days. On November 29, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants request that at least an additional 48 days be added to the period of 60 days entered for Office delay in mailing a first action.

Applicants' argument has been considered, but is not well taken. Pursuant to 37 C.F.R. § 1.702(a),

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted

[1] PALM records indicate that the Issue Fee payment was received on December 19, 2007.

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;

On December 7, 2006, the Office mailed a non-final rejection in this application. This was fourteen months and 60 days after the filing of the application on August 8, 2005. Accordingly, a period of adjustment of 60 days was entered.

The subsequent mailing of a non-final Office action superseding this action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on December 7, 2006.

The determination of patent term adjustment at the time of the mailing of the Notice of Allowance of ninety-four (94) days is correct.

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 Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY NY 11560

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JUL 18 2008

In re Application of	:	
Rajiv Laroia et al.	:	
Application No. 11/199,402	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. **LAROIA 35-26-19**	:	

This is a decision on the petition filed June 30, 2008, to withdraw the holding of abandonment. The petition is being treated under 37 CFR 1.181(b) in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before May 28, 2008 as was required by the Notice of Allowance mailed February 28, 2008. This application therefore became abandoned on May 29, 2008. Accordingly, a Notice of Abandonment was mailed June 25, 2008.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket and the docket records revealed that the Notice was not received and submits copies of pages from docket records, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2617 for a re-sending of the Notice of Allowance and Notice of Allowability.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

00-065

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OFFICE OF PETITIONS

In re Application of
Packes, et al.
Application No. 09/930,717
Filed: August 15, 2001
Attorney Docket No. 00-065
For: SYSTEM AND METHOD FOR AUTOMATED PLAY OF LOTTERY GAMES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed January 11, 2002.

The petition is granted.

Petitioners have shown that the non-signing inventors, John Packes, Jr., Michael Steib, and Andrew Golden, have constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations/statement of facts of several Walker Digital employees establish that the non-signing inventors would not cooperate. Senior Patent Paralegal Veronkia Leliever states that she successfully mailed the inventors the application papers, including the specification, claims and drawings and that during a November 16, 2001 telephone conversation with Inventor Steib that he shared his belief that the assignment agreement to Walker Digital was not valid. Paralegal Michael Brinton left messages at the last known telephone numbers for the non-signing inventors, but none, including Mr. Golden, returned calls. James Jorasch, Vice President of Research and Development states that Mr. Packes on multiple occasions agreed to stop by his former employer's office to sign papers, but failed to do so over more than a 3 month period. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64, the petition fee, and a statement of the last known addresses for the non-signing inventors.

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

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

also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Publications Division.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD., Suite 1200
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Application of Guttman et al. :
Application No. 11/199,413 :
Filing Date: August 8, 2005 :
Attorney Docket No. 1392/10/2/2/3/2 DIV :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed November 16, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice of Appeal was filed April 20, 2007.

A Notice of Abandonment was mailed October 23, 2007.

The instant petition was filed November 16, 2007. Petitioner correctly states one may obtain up to a five-month extension of time to file an Appeal Brief. Petitioner contends the Notice of Abandonment was improper because it was mailed prior to the expiration of the maximum extendable time period for reply.

An Appeal Brief and payment for a five-month extension of time were *timely* filed November 19, 2007.

Since the Appeal Brief was timely filed, the application is not abandoned. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2823 will be informed of the instant decision and the application, including the Appeal Brief filed November 19, 2007, 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Shusaku Tsusaka	: DECISION ON REQUEST FOR
Patent Number	: 7664425	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,417	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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SEP 1 8 2006

OFFICE OF PETITIONS

In re Application of:
Foley et al.
Application No. 11/199,418
Filed: August 8, 2005
PGPUB: US20060009780A1 1/12/2006
Docket No.: 5074C-23/COE

: ON PETITION

This is a decision on the petition filed June 22, 2006, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a continuation and a reissue having the same filing date, from its current status as that of a continuation, but non-reissue, application.

The petition under 37 CFR 1.182 requesting conversion of the above-identified non-reissue continuation to a reissue continuation is **dismissed.**

BACKGROUND

Original application for patent no. 09/148,498 was filed September 4, 1998, and was issued in due course as U.S. Patent No. 6,226,548 ('548) on May 1, 2001.

On April 24, 2003, applicant filed an application given the control no. 10/423,332 ('332). The application, as filed, clearly and unambiguously sought to reissue the '548 patent. This was reflected, *inter alia*, by its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, as well as by way of presentation of the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly presented claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '548 patent. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date, the '332 application as filed, was clearly a broadening reissue application that contained 46 new claims.

On June 5, 2003, the USPTO mailed a filing receipt in the '332 reissue application. The filing receipt indicated that the USPTO was treating this '332 application as a reissue application, and as such, was not eligible for pre grant publication, and included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On July 8, 2003, pursuant to 37 CFR 1.11(b), an *Official Gazette (O.G.)* notice informed the public that the '332 application had been filed to reissue the '548 patent.

On April 22, 2005, the examiner mailed a Notice of Allowance in the '332 reissue application. On July 21, 2005, applicant paid the issue fee in the '332 reissue application.

On August 8, 2005, the above-identified papers were deposited, styled as a continuation of the '332 application. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a continuation and a reissue.

On October 4, 2005, the USPTO mailed a filing receipt in the instant application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a continuation application of the '332 reissue application; it did not apprise applicant that he had filed an application that was both a continuation of the '332 reissue application and a reissue of the '548 patent. In addition, a projected pre grant publication date of January 12, 2006, was indicated.

On January 11, 2006, the USPTO mailed a Notice of Publication of Application that advised applicant that the instant application would be published on January 12, 2006, as US20060009780 A1.

On January 12, 2006, the instant continuation application was published as indicated immediately above.

The '332 reissue application issued as U.S. Patent no. RE39133 on June 16, 2006.

On June 22, 2006, applicant filed a petition under 37 CFR 1.182 requesting that the USPTO convert the above-captioned application to an application that is both a continuation and a reissue having the same filing date, from its current status as that of a continuation, but non-reissue, application.

OPINION

Petitioner recounts the facts surrounding the filing of the instant application, and in view of the claim for benefit of the prior reissue application that was present on filing herein, requests conversion of this application to a reissue continuation application.

What was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '332 reissue application as filed with the contents of the instant application as filed), and furthermore, those indicia of the fact that an application that was both a continuation of the '332 application and also a reissue of the '548 patent had been filed:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the 20 original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),

(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim (i.e., 21 et seq), per 37 CFR 1.177(b).

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Cos
tello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a continuation reissue application, as opposed to merely filing a non-reissue continuation application when this application was filed, and was not diligent in seeking to correct his filing error.

Petitioner's failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also a continuation, is the cause of petitioner's current predicament.[1] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party or his representative makes an avoidable mistake in filing or not filing papers); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985)(petitioner's failure to take adequate notice of USPTO procedures will not be permitted to shift, in equity, his lack of diligence onto the USPTO.)

Rather, as the alleged failure to comply with the rules and procedures specific to applications for reissue in general, and to the rules specific to continuation applications that are also for reissue is an oversight that could have been avoided by the exercise of reasonable care and diligence, such is not a circumstance beyond the control of petitioner warranting waiver of the rules. See Nitto, supra (Commissioner's refusal to waive requirements of 37 C.F.R. 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 C.F.R. 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 C.F.R. 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner 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);Stevens v. Tamai, 70 USPQ2d 1765 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO). Further, it is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or other extraordinary relief. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799

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[1] Because the USPTO regulations are published in the Federal Register as required by the Federal Register Act, 44 U.S.C. §1505 (formerly 44 U.S.C. §§5, 7), they are binding, even in the absence of actual knowledge. See, *e.g.*,Timber Access Industries Co. v. United States, 213 Ct. Cl. 648, 553 F.2d 1250, 1255 (1977); Andrews v. Knowlton, 509 F.2d 898, 905 (2d Cir.), cert. denied, 423 U.S. 873 (1975); United States v. Aarons, 310 F.2d 341, 345-48 (2d Cir. 1962); In re Pacific Far East Line, Inc., 314 F.Supp. 1339, 1348 (N.D. Cal. 1970), aff'd, 472 F.2d 1382 (9th Cir. 1973).

(D.D.C. 1995). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, petitioner's lack of diligence in this matter also operates against any favorable treatment of his request. In this regard, the filing receipt mailed October 4, 2005, apprised petitioner that he had filed a continuation application; it did not apprise petitioner that he had filed an application that was both a continuation of the '332 application and a reissue of the '548 patent. Still further, the Notice of Publication of Application mailed January 11, 2006, advised petitioner that the instant application would be published on January 12, 2006. As such, petitioner long ago knew, or should have known, that he had not filed a reissue application, notwithstanding the same indication on the filing receipt, since a reissue application is not subject to pre-grant publication. See 37 CFR 1.211(b), and the first paragraph of MPEP1441.01. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Indeed, petitioner was content with the USPTO treatment of this and one other similarly situated non reissue continuation.

Likewise, the public has had since January 12, 2006, to rely on the fact that the instant published application was facially not an application for reissue, much less one of a plurality of broadening reissue applications for the '607 patent; it was merely a Bauman-type non- reissue continuation.[2] Likewise, the pre-grant publication of this application on January 12, 2006, informed the public that the instant application was a mere Bauman-type continuation, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885).

Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a reissue continuation of the '332 reissue application as well as a reissue of the '548 patent, such that the current statutory bar on the claims herein arising under Bauman would be obviated.[3] Rather, the publication of the above-identified application as a non-reissue continuation was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120

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[2] In re Bauman, 214 USPQ 585 (CCPA 1982). Note that, as held in Bauman, the instant continuation application's effective filing date would be that of the '332 reissue application and not that of the original application that resulted in the '548 patent.

[3] See Bauman, supra. The '332 reissue was filed more than 1 year after the '548 patent issued.

would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on January 12, 2006, that a Bauman type non-reissue continuing application had been filed on August 8, 2005. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the instant application was published, and only had notice that a non-reissue continuation application of the '332 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true continuation application that was also a reissue of the '548 patent. But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had not met requirements for a "true reissue"within the time limit for filing a claim-broadening reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a continuation and a reissue and subsequent failure to act diligently to seek the requested conversion weighs against petitioner.

DECISION

For the reasons given above, and balancing of the interests of the patentee with that of the public, that balance will be found in favor of the public interest in the finality and certainty of claim scope by refusing the requested relief herein. The petition is **dismissed.** This application will continue to be treated by the USPTO as a non reissue continuation application.

Petitioner is not unduly prejudiced by this decision as he has already obtained one broadening reissue of the original patent and apparently also has had the filing of 2 additional apparently broadening reissue continuations, No. 11/451,594 filed June 12, 2006, announced in the August 1, 2006, *Off. Gaz.*; and No. 11/451,595 also filed June 12, 2006, announced in the August 8, 2006, *Off. Gaz.*

This application is being referenced to the Technology Center for continued treatment as a non-reissue continuation application.

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

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/199,418	08/08/2005	Kevin T. Foley	5074A-23/COE	1172

7590 04/28/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
MANUEL, GEORGE C

ART UNIT	PAPER NUMBER
3762	

MAIL DATE	DELIVERY MODE
04/28/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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OFFICE OF PETITIONS

In re Application of:
Foley et al.
Application No. 11/199,419 : ON PETITION
Filed: August 8, 2005
PGPUB: US2005/0277832 A1 12/15/05
Docket No.: 5074C-23/COD

This is a decision on the petition filed June 22, 2006, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a continuation and a reissue having the same filing date, from its current status as that of a continuation, but non-reissue, application, and on the petition filed August 18, 2006, under 37 CFR 1.182 requesting expedited treatment of the earlier petition. The fees for both petitions have been received.

The petition under 37 CFR 1.182 requesting expedited treatment is **granted.**

The petition under 37 CFR 1.182 requesting conversion of the above-identified non-reissue continuation to a reissue continuation is **dismissed.**

BACKGROUND

Original application for patent no. 09/148,498 was filed September 4, 1998, and was issued in due course as U.S. Patent No. 6,226,548 ('548) on May 1, 2001.

On April 24, 2003, applicant filed an application given the control no. 10/423,332 ('332). The application, as filed, clearly and unambiguously sought to reissue the '548 patent. This was reflected, *inter alia*, by its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, as well as by way of presentation of the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly presented claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '548 patent. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date, the '332 application as filed, was clearly a broadening reissue application that contained 46 new claims.

On June 5, 2003, the USPTO mailed a filing receipt in the '332 reissue application. The filing receipt indicated that the USPTO was treating this '332 application as a reissue application, and as such, was not eligible for pre grant publication, and included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On July 8, 2003, pursuant to 37 CFR 1.11(b), an *Official Gazette (O.G.)* notice informed the public that the '332 application had been filed to reissue the '548 patent.

On April 22, 2005, the examiner mailed a Notice of Allowance in the '332 reissue application. On July 21, 2005, applicant paid the issue fee in the '332 reissue application.

On August 8, 2005, the above-identified papers were deposited, styled as a continuation of the '332 application. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a continuation and a reissue.

On September 2, 2005, the USPTO mailed a filing receipt in the instant application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a continuation application of the '332 reissue application; it did not apprise applicant that he had filed an application that was both a continuation of the '332 reissue application and a reissue of the '548 patent. In addition, a projected pre grant publication date of December 15, 2005, was indicated.

On December 14, 2005, the USPTO mailed a Notice of Publication of Application that advised applicant that the instant application would be published on December 15, 2005, as US2005/0277832.

On December 15, 2005, the instant continuation application was published as indicated immediately above.

The '332 reissue application issued as U.S. Patent no. RE39133 on June 16, 2006.

On June 22, 2006, applicant filed a petition under 37 CFR 1.182 requesting that the USPTO convert the above-captioned application to an application that is both a continuation and a reissue having the same filing date, from its current status as that of a continuation, but non-reissue, application. On August 18, 2006, applicant filed a second petition seeking expedited treatment of the aforementioned petition.

OPINION

Petitioner recounts the facts surrounding the filing of the instant application, and in view of the claim for benefit of the prior reissue application that was present on filing herein, requests conversion of this application to a reissue continuation application.

What was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '332 reissue application as filed with the contents of the instant application as filed), and furthermore, those indicia of the fact that an application that was both a continuation of the '332 application and also a reissue of the '548 patent had been filed:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than

one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the 20 original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),
(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim (i.e., 21 et seq), per 37 CFR 1.177(b).

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a continuation reissue application, as opposed to merely filing a non-reissue continuation application when this application was filed, and was not diligent in seeking to correct his filing error.

Petitioner's failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also a continuation, is the cause of petitioner's current predicament.[1] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party or his representative makes an avoidable mistake in filing or not filing papers); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985)(petitioner's failure to take adequate notice of USPTO procedures will not be permitted to shift, in equity, his lack of diligence onto the USPTO.)

Rather, as the alleged failure to comply with the rules and procedures specific to applications for reissue in general, and to the rules specific to continuation applications that are also for reissue is an oversight that could have been avoided by the exercise of reasonable care and diligence, such is not a circumstance beyond the control of petitioner warranting waiver of the rules. See Nitto, supra (Commissioner's refusal to waive requirements of 37 C.F.R. 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 C.F.R. 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 C.F.R. 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner 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);Stevens v. Tamai, 70 USPQ2d 1765 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO). Further, it is well settled that a party's

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[1] Because the USPTO regulations are published in the Federal Register as required by the Federal Register Act, 44 U.S.C. §1505 (formerly 44 U.S.C. §§5, 7), they are binding, even in the absence of actual knowledge. See, *e.g.*,Timber Access Industries Co. v. United States, 213 Ct. Cl. 648, 553 F.2d 1250, 1255 (1977); Andrews v. Knowlton, 509 F.2d 898, 905 (2d Cir.), cert. denied, 423 U.S. 873 (1975); United States v. Aarons, 310 F.2d 341, 345-48 (2d Cir. 1962); In re Pacific Far East Line, Inc., 314 F.Supp. 1339, 1348 (N.D. Cal. 1970), aff'd, 472 F.2d 1382 (9th Cir. 1973).

inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or other extraordinary relief. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, petitioner's lack of diligence in this matter also operates against any favorable treatment of his request. In this regard, the filing receipt mailed September 2, 2005, apprised petitioner that he had filed a continuation application; it did not apprise petitioner that he had filed an application that was both a continuation of the '332 application and a reissue of the '548 patent. Still further, the Notice of Publication of Application mailed December 14, 2005, advised petitioner that the instant application would be published on December 15, 2005. As such, petitioner long ago knew, or should have known, that he had not filed a reissue application, notwithstanding the same indication on the filing receipt, since a reissue application is not subject to pre-grant publication. See 37 CFR 1.211(b), and the first paragraph of MPEP1441.01. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Indeed, petitioner was content with the USPTO treatment of this and one other similarly situated non reissue continuation.

Likewise, the public has had since December 15, 2005, to rely on the fact that the instant published application was facially not an application for reissue, much less one of a plurality of broadening reissue applications for the '607 patent; it was merely a Bauman-type non- reissue continuation.[2] Likewise, the pre-grant publication of this application on December 15, 2005, 2005, informed the public that the instant application was a mere Bauman-type continuation, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885).

Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a reissue continuation of the '332 reissue application as well as a reissue of the '548 patent, such that the current statutory bar on the claims herein

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[2] In re Bauman, 214 USPQ 585 (CCPA 1982). Note that, as held in Bauman, the instant continuation application's effective filing date would be that of the '332 reissue application and not that of the original application that resulted in the '548 patent.

arising under Bauman would be obviated.[3] Rather, the publication of the above-identified application as a non-reissue continuation was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120 would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on December 15, 2005, that a Bauman type non-reissue continuing application had been filed on August 8, 2005. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the instant application was published, and only had notice that a non-reissue continuation application of the '332 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true continuation application that was also a reissue of the '548 patent. But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had not met requirements for a "true reissue"within the time limit for filing a claim-broadening reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a continuation and a reissue and subsequent failure to act diligently to seek the requested conversion weighs against petitioner.

DECISION

For the reasons given above, and balancing of the interests of the patentee with that of the public, that balance will be found in favor of the public interest in the finality and certainty of claim scope by refusing the requested relief herein. The petition is **dismissed.** This application will continue to be treated by the USPTO as a non reissue continuation application.

Petitioner is not unduly prejudiced by this decision as he has already obtained one broadening reissue of the original patent and apparently also has had the filing of 2 additional apparently broadening reissue continuations, No. 11/451,594 filed June 12, 2006, announced in the August 1, 2006, *Off. Gaz.*; and No. 11/451,595 also filed June 12, 2006, announced in the August 8, 2006, *Off. Gaz.*

This application is being referenced to the Technology Center for continued treatment as a non-reissue continuation application.

---

[3] See Bauman, supra. The '332 reissue was filed more than 1 year after the '548 patent issued.

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

Brian Hearn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/199,419	08/08/2005	Kevin T. Foley	5074A-000023/COD	1165

7590 03/20/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
MANUEL, GEORGE C

ART UNIT	PAPER NUMBER
3762	

MAIL DATE	DELIVERY MODE
03/20/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

02 FC:1111 -500.00 OP

04 FC:1202 -1650.00 OP

Repln. Ref: 03/20/2009 KKING1 0015393500
DA#:080750 Name/Number:11199419
FC: 9204 $2150.00 CR

FORM PET651G (Rev. 08/07)

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OCT 23 2008

OFFICE OF PETITIONS

Ashok Tankha
Of Counsel, Lipton, Weinberger & Husick
36 Greenleigh Drive
Sewell, NJ 08080

In re Application of	:	
Kingsley Chukwudum Nwosu	:	
Application No. 11/199,428	:	DECISION ON PETITION
Filed: September 8, 2005	:	TO WITHDRAW
Attorney Docket No. Enenia_04	:	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 27, 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 Ashok Tankha, on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kingsley Chukwudum Nwosu
1875 Pilgrim Way
Union, NJ 07083

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/199,428	08/08/2005	Kingsley Chukwudum Nwosu	Enenia_04

CONFIRMATION NO. 1155

POWER OF ATTORNEY NOTICE

OC000000032739570

64188
ASHOK TANKHA
OF COUNSEL, LIPTON, WEINBERGER & HUSICK
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

Date Mailed: 10/23/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/27/2008.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Diehl Servilla LLC
77 Bryant Avenue
Suite 210
Clark, NJ 07066

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JUL 23 2008

In re Application of	:	
Donald Spector	:	
Application No. 11/199,433	:	DECISION ON PETITION
Filed: August 8, 2005	:	TO WITHDRAW
Attorney Docket No. 3320/102	:	FROM RECORD
	:	

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 **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Diehl Servilla LLC has been revoked by the assignee of the patent application on February 6, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bromberg & Sunstein LLP**
125 Summer Street
Boston, MA 02110-1618

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ROCKWELL COLLINS, INC.
ATTENTION: KYLE EPPELE
M/S 124-323
400 COLLINS ROAD, NE
CEDAR RAPIDS, IA 52498

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AUG 20 2008

In re Application of	:	
Snodgrass et al.	:	
Application No. 11/199,440	:	DECISION ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 04CR415/KE	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before August 21, 2007, as required by the Notice of Allowance and Fee(s) Due mailed May 21, 2007. Accordingly, the date of abandonment of this application is August 22, 2007. A Notice of Abandonment was mailed September 14, 2007.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

Mail Date: 04/20/2010

Applicant	: Lowell F. Matthews	: DECISION ON REQUEST FOR
Patent Number	: 7601410	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,450	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WILLIAM A. WRIGHT
8721 JHETLAND LANE
INDIANAPOLIS IN 46278

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FEB 19 2008

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Wright :
Application No. 11/199,502 :
Filed: August 9, 2005 :
Attorney Docket No. N/A :
For: UNIVERSAL STUD

This is a decision on the petition, filed December 26, 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 timely submit a reply within three (3) months of the mailing of the October 18, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on January 19, 2007. A Notice of Abandonment was mailed on May 17, 2007.

Applicant has submitted an amendment in reply to the October 18, 2006 non-final Office action, a proper statement of the unintentional nature of the delay in responding to the October 18, 2006 non-final Office action, and the $770.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3633 for consideration of the amendment filed on December 26, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: John E. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7599543	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,511	: OF WYETH
Filed	: 08/08/2005	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 Gunbarrel Avenue
Boulder, CO 80301

Mail Date: 04/20/2010

Applicant	: Joseph Coakley	: DECISION ON REQUEST FOR
Patent Number	: 7657295	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1044** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NELLCOR PURITAN BENNETT LLC
ATTN: IP LEGAL
6135 Gunbarrel Avenue
Boulder, CO 80301

Mail Date: 04/20/2010

Applicant	: William Raridan	: DECISION ON REQUEST FOR
Patent Number	: 7590439	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PETER LIPIDAROV
11224 LINDEN LANE
PORT RICHEY FL 34668

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AUG 01 2007

OFFICE OF PETITIONS

In re Application of	:
Peter Lipidarov	:
Application No. 11/199,540	: DECISION GRANTING PETITION
Filed: August 8, 2005	: UNDER 37 CFR 1.137(b)
Attorney Docket No. LipiDAROV-1	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 an (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of August 29, 2006, is accepted as having been unintentionally delayed.

Petitioner submitted a total of $1,080 on February 15, 2007. A petition fee for small entity under 37 CFR 1.137(b)is $750. Therefore, an overpayment of $330 can be refunded by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request.

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

This matter is being referred to Technology Center AU 3711.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FRANK L. KUBLER
13261 S.W. 54TH COURT
MIRAMAR, FL 33027

In re Application of	:	
Mohammed Sadeek	:	
Application No. 11/199,554	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. A-PALTOW-PAT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 25, 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 October 26, 2005.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of
HAYES, Thomas J.
Application No. 11/199,560
Filed: August 08, 2005
Attorney Docket No. **46894-0100**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2009.

The request is **NOT APPROVED** because it 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 February 05, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LARSON NEWMAN ABEL & POLANSKY, LLP**
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60610-4764

In re Application of	:	
MYERS, Theodore J. et al.	:	
Application No. 11/199,564	:	DECISION ON PETITION
Filed: August 08, 2005	:	TO WITHDRAW
Attorney Docket No. **1280-COM1301**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2009.

The request is 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 FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on February 05, 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LARSON NEWMAN ABEL & POLANSKY, LLP**
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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Foley & Lardner, LLP
321 North Clark Street
Suite 2800
Chicago, IL 60654-5313

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel Thomas Werner et al.	:	
Application No. 11/199,567	:	DECISION ON PETITION
Filed: August 8, 2005	:	TO WITHDRAW
Attorney Docket No. 029573-1001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2009.

The request is **APPROVED**.

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

The request was signed by G. Peter Albert, Jr. on behalf of all attorneys/agents associated with customer number 27433. All attorneys/agents associated with customer number 27433 have been withdrawn.

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

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

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Daniel Thomas Werner
5871 Torca Court
San Diego, CA 92124

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/199,567	08/08/2005	Daniel Thomas Werner	029573-1001

CONFIRMATION NO. 9899

POWER OF ATTORNEY NOTICE

27433
FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

OC000000035120445

Date Mailed: 03/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2009.

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

/kainabinet/

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

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

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MAR 1 3 2009

OFFICE OF PETITIONS

In re Application of
MYERS, Theodore Jon et al.
Application No. 11/199,576
Filed: August 08, 2005
Attorney Docket No. **1280-COM1401**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2009.

The request is **NOT APPROVED** because it 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 February 05, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LARSON NEWMAN ABEL & POLANSKY, LLP**
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

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MAR 1 3 2009

OFFICE OF PETITIONS

In re Application of	:	
COHEN, Lewis Neal et al.	:	
Application No. 11/199,577	:	DECISION ON PETITION
Filed: August 08, 2005	:	TO WITHDRAW
Attorney Docket No. **1280-COM1201**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 2009.

The request is **NOT APPROVED** because it 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 February 05, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LARSON NEWMAN ABEL & POLANSKY, LLP**
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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FOLEY HOAG, LLP
PATENT GROUP (w/HUV HMV)
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

In re Application of	:	
Robert R. Rando	:	
Application No.: 11/199,594	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No.: HMV-091.01	:	

This is a decision on the petition, filed February 6, 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 December 30, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 1626 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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FOLEY HOAG, LLP
PATENT GROUP (w/HUV HMV)
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

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FEB 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert R. Rando	:	
Application No.: 11/199,594	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No.: HMV-091.01	:	

This is a decision on the petition, filed February 6, 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 December 30, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 1626 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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JULIO POSADA
2505 Countryside Pines Dr.
Clearwater FL 33761

JAN 0 3 2007

In re Application of: POSADA	:
Appl. No.: 11/199,595	: DECISION ON PETITION
Filed: August 6, 2006	:
For: OIL LEAK DIAPER	:

This is a decision on the petition filed on August 6, 2006 by which petitioners request the application be treated special under 37 CFR 1.102(c) (2)(i) under the accelerated examination procedure set forth in MPEP 708.02, section V: Environmental Quality. The petition is considered pursuant to 37 CFR 1.102 (c), and no fee is required.

The petition is GRANTED.

A grantable petition to make an application special under 37 CFR 1.102(c) (2)(i) and the accelerated examination procedure set forth in MPEP 708.02, section V: Environmental Quality must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration of maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition includes a statement from the applicant explaining how the materiality standard is met. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to an examiner in Art Unit 3761 for examination on the merits.

Any questions regarding this decision should be directed to J. Harrison at 571-272-4449.

PETITION GRANTED.

J. Harrison, Special Programs Examiner
Technology Center 3700

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Ward & Olivo
382 Springfield Ave.
Suite 305
Summit, NJ 07901

Mail Date: 04/21/2010

Applicant	: Jeffrey Watt	: DECISION ON REQUEST FOR
Patent Number	: 7612410	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **27** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P.O. BOX 4390
TROY, MI 48099-4390

Mail Date: 04/21/2010

Applicant	: Frank Flak JR.	: DECISION ON REQUEST FOR
Patent Number	: 7581652	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,623	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: 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.

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BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

Mail Date: 04/20/2010

Applicant	: Vernon E. Gleasman	: DECISION ON REQUEST FOR
Patent Number	: 7635255	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,632	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **652** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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EDWARD J. LYNCH
DUANE MORRIS LLP
20TH FLOOR
ONE MARKET SPEAR TOWER
SAN FRANCISCO, CA 94105

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of	:
Sharkey et al.	:
Application No. 11/199,633	: DECISION ON PETITION
Filed: August 9, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 33108-706.201	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 13, 2006, 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 concurrently with the instant 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(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Further, the amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

The Power of Attorney submitted on February 9, 2006 was rejected because it lacked a Statement under 37 CFR 3.73(b), which is required whenever an assignee takes action in an application. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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[1] *Note* 37 CFR 1.121

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

Cc: WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304

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In re Application of	:	
Sharkey et al.	:	
Application No. 11/199,633	:	DECISION GRANTING PETITION
Filed: August 9, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 33108-706.201	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 25, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/212,032, filed August 1, 2002, as set forth in the amendment filed concurrently with the instant 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.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant 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 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, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 3762 for appropriate action on the amendment filed May 25, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/199,633	08/09/2005	3762	975	33108-706.201	13	39	3

CONFIRMATION NO. 2731
CORRECTED FILING RECEIPT
OC000000019508643
OC000000019508643

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Date Mailed: 07/06/2006

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)

Hugh R. Sharkey, Redwood City, CA;
Alexander Khairkhahan, Palo Alto, CA;
Serjan D. Nikolic, San Francisco, CA;
Branislav Radovancevic, Houston, TX;

Assignment For Published Patent Application

CardioKinetix, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **21971**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/212,032 08/01/2002

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/199,633

Projected Publication Date: 10/12/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for treating myocardial rupture

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.

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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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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Jorg Hauptmann	: DECISION ON REQUEST FOR
Patent Number	: 7649948	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1140** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : March 24, 2008

Patent No. :7,147,100
Inventor(s) :Zakary Jame Borg
Issued :December 12, 2006
Title :SILICON-CONTAINING COMPOSITIONS FOR SPIN-ON ARCH/HARDMASK MATERIALS
Docket No. :FIS920030196US1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Chpl. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Chernoff, Vilhauer, McClung & Stenzel, L.L.P
601 SW Second Avenue, Suite 1600
Portland, OR 97204

CBN/arg

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STEPHEN R. ROBINSON
1121 PENNSYLVANIA
LAWRENCE KS 66044

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of
Robertson
Application No.11/199,713
Filed: August 9, 2005
Title of Invention: Apparatus For Securing A Deadbolt

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 11, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on September 2, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 3, 2005. A Notice of Abandonment was mailed on May 9, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ERICKSON & KLEYPAS, L.L.C.
800 W. 47TH STREET, SUITE 401
KANSAS CITY, MO 64112

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MAY 12 2008

In re Application of	:	
Phillip H. ROBERTSON	:	
Application No. 11/199,713	:	DECISION ON PETITION
Filed: August 09, 2005	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-compliant notice mailed, November 15, 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 application became abandoned on December 18, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and supplemental amendment filed April 23, 2008; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-compliant notice of November 15, 2007, is accepted as having been unintentionally delayed.

The power of attorney filed April 22, 2008, by the assignee has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 3673 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Christopher Beall	: DECISION ON REQUEST FOR
Patent Number	: 7623344	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY UT 84111

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MAR 30 2007

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MAR 30 2007

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CANCELLED

In re Application of	:	
Commins, Alfred D.	:	
Application No. 11/199,734	:	DECISION GRANTING PETITION
Filed: August 9, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2863.2.6.1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 12, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/156,042, filed September 24, 1999, as 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 Commissioner may require additional information where there is a question whether the delay 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 expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the intermediate nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/156,042, which was filed on September 24, 1999, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3635 for appropriate action on the amendment submitted December 12, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/156,042.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/199,734	08/09/2005	3635	500	2863.2.6.1	20	3

CONFIRMATION NO. 2833
CORRECTED FILING RECEIPT
OC000000023174883
OC000000023174883

28049
PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 03/29/2007

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)

Alfred D. Commins, Friday Harbor, WA;

Power of Attorney:

A Pate--36234
Gary Pierce--38019
David Fonda--39672
Hal Baird--42284
Gordon Hill--48664
Daniel Nelson--52063

Domestic Priority data as claimed by applicant

This application is a CON of 10/639,304 08/12/2003 PAT 7,150,132
and is a CIP of 10/602,534 06/23/2003 PAT 7,037,060
which is a CON of 10/146,531 05/15/2002 PAT 6,585,469
which is a CON of 09/558,307 04/25/2000 PAT 6,390,747
which claims benefit of 60/156,042 09/24/1999

Foreign Applications

If Required, Foreign Filing License Granted: 08/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/199,734

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Continuous hold-down system

Preliminary Class

052

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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

GRANTED

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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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MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston, MA 02110

Mail Date: 06/01/2010

Applicant	: Clive R. Wood	: DECISION ON REQUEST FOR
Patent Number	: 7485297	: RECALCULATION of PATENT
Issue Date	: 02/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/199,739	: OF WYETH
Filed	: 08/09/2005	:
		:

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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Paper No.

SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE RI 02903-7128

COPY MAILED

SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Tobben et al.	:	DECISION ON PETITION
Application No. 11/199,753	:	
Filed: August 9, 2005	:	
Atty Docket No. 02411-1	:	

This is in response to the PETITION filed October 28, 2005, requesting that figure 2 be entered in the above-identified application, and the request for corrected filing receipt filed November 10, 2005. In essence, petitioners request that the Office accord the above-identified application a filing date of August 9, 2005, with figure 2 considered part of the original application disclosure.

BACKGROUND

Application papers in the above-identified application were deposited on August 9, 2005.

On August 31, 2005, in response to the denotation on their return postcard indicating that page 2 of the drawings was missing from the original application disclosure, applicants filed a complete copy of figures 1-9 (11 sheets).

Without consideration of the response filed August 31, 2005, on September 1, 2005, the Office of Initial Patent Examination mailed applicants a "NOTICE TO FILE CORRECTED APPLICATION PAPERS," notifying applicants that the application papers had been accorded a filing date; however, figure 2 appeared to have been omitted. In addition, the Notice required submission of a substitute specification. Then, on October 27, 2005, the Notice

mailed September 1, 2005 was withdrawn by the Office and a NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION was mailed. This Notice withdrew the requirement for submission of a substitute specification (copy enclosed). Further, a filing receipt was made showing the filing date had been changed to August 31, 2005, the date of submission of the drawings.

On October 28, 2005, applicants responded to the September 1, 2005 Notice with the instant petition. Applicants assert that the application as filed included figure 2; however, the Patent Office inadvertently misplaced figure 2. In support thereof, applicants submitted a copy of their return postcard along with a copy of their application transmittal. Alternatively, applicants argue that figure 2 of the application finds support from a related PCT application.

On November 10, 2005, applicants responded to the October 27, 2005 Notice requesting a corrected filing receipt. Applicants requested the filing date be corrected from August 31, 2005 to August 9, 2005.

OPINION

Petitioner's evidence has been considered, but not found persuasive that figure 2 was present in the application on filing. 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. However, a review of petitioner's return postcard receipt reveals that: 1) it was date stamped as received in the USPTO on August 9, 2005; and 2) it identifies the items being filed, including "drawings (11 sheets)." In this instance, the postcard includes an annotation by the Office that "The PTO did not receive No. 2 page of drawing." Thus, the postcard is persuasive evidence that the figure was <u>not</u> among the papers present on filing.

Further, the application file is the Official record of what was received in the Office in an application. A review of the instant application file confirms that the application was deposited on August 9, 2005, and contained sufficient papers to be entitled to a filing date[1]. However, figure 2 was not among

[1] 35 U.S.C. 111(a)(4) provides that: The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

the papers filed on August 9, 2005, as figure 2 is not present in the application. Petitioner's evidence does not overcome this conclusion. The transmittal is not persuasive evidence of the papers received in the Office, as it is not reviewed by the Office on receipt of the application for verification of the contents of the application.

Further, petitioner has not set forth any other basis upon which figure 2 should be entered in the application. The inclusion of an incorporation by reference statement will permit an applicant to amend the continuation or divisional application to include subject matter from the 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. (Only for applications filed prior to September 21, 2004, may the incorporation by reference statement appear in the transmittal letter.) Alternatively, pursuant to 37 CFR 1.57(a),

> If a continuation or divisional application as originally filed on or after September 21, 2004 does not include an explicit incorporation by reference statement and is entitled to a filing date despite the inadvertent omission of a portion of the prior application(s), applicant may be permitted to add the omitted material by way of an amendment under 37 CFR 1.57(a). Such an amendment must be made within any time period set by the Office. See 37 CFR 1.57(a)(1).

In this instance, petitioner asserts that Figure 2 of the instant application finds support from the related PCT application PCT/EP01/06724 filed on June 14, 2001, which in turn claims priority to DE 100 36 227.3 filed on June 14, 2000. This is not a basis for entry of the figure on petition. Mere reference to a prior application is not an incorporation by reference. A review of the application as filed confirms that it does not include an express incorporation by reference statement of the prior application. Nor is a claim for priority in compliance with 37 CFR 1.78(a) present in the first sentence(s) of the specification or in an application data sheet. The application was filed with the declaration from prior application No. 10/311,088. However, a new application containing a copy of an oath or declaration under 37 CFR 1.63 referring to an attached specification is indistinguishable from a continuation or divisional application containing a copy of an

oath or declaration from a prior application submitted pursuant to 37 CFR 1.63(d). Unless an application is submitted with a statement that the application is a continuation or divisional application, see 37 CFR 1.78(a)(2), the Office will process the application as a new non-continuing application. To claim the benefit of a prior application under 35 U.S.C. 120, 121, or 365(c), applicant must include a reference to the prior application in compliance with 37 CFR 1.78(a) in the first sentence(s) of the specification or in an application data sheet. See MPEP § 201.11. This claim for priority must be present on filing of the application for benefit of § 1.57(a).

CONCLUSION

In view thereof, the application is entitled to a filing date but without figure 2 present in the application. The Office should not have changed the filing date to August 31, 2005.

Accordingly, the petition is **DISMISSED** to the extent that it requests a filing date of August 9, 2005 with figure 2 considered part of the original application disclosure. The petition fee will not be refunded.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for **correction of the filing date to August 9, 2005** without figure 2 present in the application and **mailing of a corrected filing receipt**.

Telephone inquiries related to this decision should be directed to Nancy Johnson, Senior Petitions Attorney at 571-272-3219.

Charles Pearson
Director
Office of Petitions

Enclosure: Copy of NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION mailed October 27, 2005.

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	ATTORNEY DOCKET NUMBER
11/199,753	08/09/2005	Helmut Tobben	02411-1

CONFIRMATION NO. 2553

FORMALITIES LETTER

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

Date Mailed: 10/27/2005

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) **Fig 2** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $400.00 petition fee *(37 CFR 1.17(f))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $400.00 petition fee *(37 CFR 1.17(f))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(f)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any

omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes . Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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	ATTORNEY DOCKET NUMBER
11/199,753	08/09/2005	Helmut Tobben	02411-1

CONFIRMATION NO. 2553

FORMALITIES LETTER

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

Date Mailed: 10/27/2005

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) **Fig 2** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $400.00 petition fee *(37 CFR 1.17(f))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $400.00 petition fee *(37 CFR 1.17(f))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(f)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any

omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes . Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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

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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

COPY MAILED
AUG 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Shaposhnikov et al.	:	
Application No. 11/199,781	:	ON PETITION
Filed: August 9, 2005	:	
Title: METHOD OF AND SYSTEM FOR PRODUCTION OF HYDROCARBONS	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 25, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicants' 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 3672 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FROM DIRECTOR'S OFFICE

OCT 29 2007

TECHNOLOGY CENTER 3600

CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI, MI 48375

In re Application of:	:	DECISION ON REQUEST TO
Tsutomu OGAWA et al.	:	PARTICIPATE IN PATENT
Application No.: 11/199,788	:	PROSECUTION HIGHWAY PILOT
Filed: August 9, 2005	:	PROGRAM AND PETITION TO
Attorney Docket No.: SKO-128-A	:	MAKE SPECIAL UNDER 37 CFR
For: ENGINE MOUNT SYSTEM	:	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 August 13, 2007, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT.**

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 is not grantable as per item (4) above in that examination of the U.S. application has already begun. A restriction requirement was mailed July 18, 2007 prior to receipt of the PPH request and the latest Office action, mailed September 25, 2007 includes an indication of allowable subject matter.

Further, the request to participate in the PPH pilot program and petition fail to include: (6) 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. application publications.

The Notification of Reasons for Refusal issued by the JPO cites two documents under the heading of "References Cited but Not Applied", i.e. Japanese Patent Laid-Open Publication No. 2002-019475 and Japanese Patent Laid-Open Publication No. 2002-200926. Although applicant has provided the applied references cited in the Notification, and although two IDS papers were filed in the instant application, on March 29, 2007 and on August 9, 2005, these two JPO documents have not been provided.

No time period for reply to this decision is available since an Office action on the merits has already been mailed.

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Robert Weinhardt
TC3600
Business Practice Specialist

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

Mail Date: 04/20/2010

Applicant	: Mark A. Christensen	: DECISION ON REQUEST FOR
Patent Number	: 7644722	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,790	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **913** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/199,865	08/08/2005	Cedric Van Rossum		2677

7590 10/23/2007
IPTV SYSTEMS, LLC
RCM # 6152
1425 SW MILIKAN WAY
BEAVERTON, OR 97005-2343

EXAMINER
BURGESS, GLENTON B

ART UNIT	PAPER NUMBER
2153	

MAIL DATE	DELIVERY MODE
10/23/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

```
Adjustment date: 10/24/2007  KKING1
08/11/2005 ZJUHAR1  00000019 11199865
02 FC:2111                    -250.00 OP
04 FC:2202                    -875.00 OP
05 FC:2201                    -200.00 OP

Adjustment date: 10/24/2007  KKING1
10/11/2005 CNGUYEN2 00000013 11199865
01 FC:2201                    -300.00 OP


Refund Ref:
10/24/2007  KKING1    0000159627
----------------------------------------

     CHECK Refund Total:      $1325.00


Refund Ref:
10/24/2007  KKING1    0000159628
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     CHECK Refund Total:      $300.00
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FORM PET651G (Rev. 08/07)

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

COPY MAILED

NOV 30 2005

OFFICE OF PETITIONS

In re Application of :
Peter Y. Li :
Application No. 11/199,873 :
Filed: August 8, 2005 :
Attorney Docket No. 03-894 :

ON PETITION

This is a decision on the petition filed October 31, 2005, requesting that the above-identified application be accorded a filing date of August 8, 2005, including Figure 4(d), described in the specification.

The application was filed on August 8, 2005. However, on September 2, 2005, the Office of Initial Patent Application (OIPE) mailed a "Notice of Omitted Item(s)in a Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figure 4d described in the specification appears to have been omitted.

In response, on October 31, 2005, the instant petition was submitted. Petitioner states, "Applicant contends that no figures were omitted from the application as filed but that the designated Figure 4(e) should have been identified as Figure 4(d). This error occurred due to a typographical error."

A review of the application file indicates that Figure 4(d) was submitted with the application as filed on August 8, 2005, however, the Figure was mislabeled as Figure 4(e) on the drawing sheet.

As such, it appears that the drawing of Figure 4(d) was present on August 8, 2005, but mislabeled by the applicants. Since it is now clear that Figure 4(d) was present on August 8, 2005, albeit mislabeled, the Figure may be considered as filed with the application on August 8, 2005.

The petition is granted.

It is noted that Petitioner has submitted a replacement drawing sheet that labels Figure 4(d) correctly.

Please note, the $400.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of August 8, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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SEP 18 2009

OFFICE OF PETITIONS

DECISION

In re Application of	:	
li	:	
Application No. 11/199,895	:	
Filed: 9 August, 2005	:	
Attorney Docket No. 14682/6	:	

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have addressed satisfactorily the statement/showing-of-delay requirement under the rule. This deficiency must be overcome.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 February, 2008, with reply due under absent an extension of time on or before 4 May, 2008.

The application went abandoned by operation of law after midnight 4 May, 2008.

The Office mailed the Notice of Abandonment 21 August, 2008.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and made the statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.[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.*

Petitioner provided no explanation for the extended period of abandonment—thirteen (13) months since abandonment and ten (10) months since Notice thereof. On any renewed petition, Petitioner (Applicant) must provide an explanation of the delay, with documentation in support thereof.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[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

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] 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

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the statement/showing-of-delay requirement under the rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

[3] 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.

[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.

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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 Petitioners 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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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

MAILED

APR 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,417,042	:	
Smyth et al.	:	DECISION ON
Issue Date: August 26, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 11/199,899	:	OF
Filed: August 8, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. PRTX-P01-009	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed October 20, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred nineteen (419) days to four hundred thirty-seven (437) days.

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

On August 26, 2008, the above-identified application matured into US Patent No. 7,417,042 with a patent term adjustment of 419 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 pursuant to Wyeth, the periods of USPTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) "only 'overlap' when the relevant periods of actual delay have at least one day in common." *Petition* p. 2. Patentees maintain that the period of

adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b) of 18 days and the period of adjustment due to examination delay pursuant to 37 CFR § 1.702(a) of 456 days do not overlap as these periods do not occur on the same day.

The 18 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 8, 2005, and the patent having been issued on August 26, 2008, three years and 18 days later. Patentees assert that in addition to this 18-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR § 1.702(a, of 456 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 § 1.702(a)(1). A Restriction Requirement was mailed on January 7, 2008, 14 months and 456 days after the application was filed on August 8, 2005.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 37 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 (18 days) and the period of Examination Delay (456 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 474 days, which is the sum of the period of Three Year Delay (18 days) and the period of Examination Delay (456 days), reduced by the period of overlap (0 days). As such, Patentees assert entitlement to a patent term adjustment of 437 days (18 + 456 reduced by 0 overlap - 37 (applicant delay)).

The Office agrees that as of the issuance of the patent on August 26, 2008, the application was pending three years and 18

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 456 days is correct. At issue is whether Patentees should accrue 18 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 456 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 18 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, 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. 54376 (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 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. It is incorrect to treat the relevant period as starting on August 8, 2008, the date that is three years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 8, 2005, to the date the patent issued on August 26, 2008. Prior to the issuance of the patent, 456 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

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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).

18 days for Office delay in issuing the patent overlap with the 456 days of Office delay. During that time, the issuance of the patent was delayed by 456 days, not 456 + 18 days. The Office took 14 months and 456 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 456 days of Office delay and the 37 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 18 days. The Office did not delay 456 days and then an additional 18 days. Accordingly, 456 days of patent term adjustment (not 456 and 18 days) was properly entered since the period of delay of 18 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 456 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 456 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 18 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

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

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

Applicant: Kornrumpf
Appl. No.: 11/199,908
Filing Date: August 9, 2005
Title: HEATING SLEEVE FOR SHRINKING ON OF SHRINK TUBE CONNECTIONS
Attorney Docket No.: AIRBUS 3.0-0222
Pub. No.: US 2006/0027536 A1
Pub. Date: February 9, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on April 11, 2006, for the above-identified application.

The instant request is that the application be republished because the patent application publication contains material errors, as dependent claim 16 is missing a line.

The request is granted.

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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of:
HYATT, Edward Craig
Application No.: 11/199,911
Filed: September 9, 2005
Attorney Docket No.: U050304/9314-125

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

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Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of	:	
Josh Kriesel et al.	:	
Application No. 11/199,913	:	DECISION ON PETITION
Filed: August 8, 2005	:	TO WITHDRAW
Attorney Docket No. 529212000301	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 27, 2006.

The request is **NOT APPROVED** 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 February 9, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **E. Thomas Wheelock**
P.O. Box 61168
Palo Alto, CA 94306

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ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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OFFICE OF PETITIONS

In re Application of :
Ward, et al. :
Application No. 11/199,915 : ON PETITION
Filed: August 9, 2005 :
Attorney Docket No. 48458-408053 (99-0021 CIPDIV) :
For: RENILLA RENIFORMIS GREEN FLUORESCENT PROTEIN

This is a decision on the request that the Office withdraw the holding of abandonment of the above-identified application. The request was filed on October 4, 2007 (certificate of mailing date October 2, 2007) and will be treated as a feeless petition under 37 CFR 1.181.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed February 27, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on May 28, 2007 for failure to reply to the February 27, 2007 non-final Office action. A Notice of Abandonment was mailed on September 5, 2007.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were filed on August 27, 2007. The undersigned finds this argument completely convincing, as the amendment and a check for a $510.00 extension of time were received in the Office on August 27, 2007. Office financial records show that the check for the required three month extension of time fee was negotiated on accounting date August 27, 2007. Therefore, a proper reply to the February 27, 2007 non-final Office action was timely filed.

The petition under 37 CFR 1.181 is **granted** and the September 5, 2007 Notice of Abandonment is **vacated**. It appears that on October 5, 2007 Technology Center A.U. 1641 mailed a Notice informing petitioners that the holding of abandonment had been withdrawn.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1641 for consideration of the amendment filed on August 27, 2007.

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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YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

In re application of Peter Friedrich Application No. 11/199,940 Filed: August 9,2005 For: MANHOLE COVER LIFT	: **DECISION ON PETITION** : **TO MAKE SPECIAL FOR** : **NEW APPLICATION** : **UNDER 37 CFR 1.102**

This is a decision on the petition filed on September 11, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on September 11, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. Therefore the application will be examined in its regular turn.

Any inquiry regarding this decision should be directed to Randolph A. Reese, Special Program Examiner, at (571) 272-6619.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600

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Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

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OFFICE OF PETITIONS

In re Application of
Florence Melton
Application No. 11/199,941
Filed: August 9, 2005
Attorney Docket No. 30958/04000

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 10, 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 Joan N. Drew on behalf of all attorneys of record who are associated with Customer Number 24024.

All attorneys/agents associated with the Customer Number 24024 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Florence Melton
1000 Urlin Avenue
Columbus, OH 43212

cc: McNees, Wallace & Nurick LLC
21 E. State Street
17th Floor
Columbus, OH 43212-4228

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FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

Mail Date: 04/20/2010

Applicant	: Scott J. Clifford	: DECISION ON REQUEST FOR
Patent Number	: 7611069	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,948	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **71** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Guenther Vogt	: DECISION ON REQUEST FOR
Patent Number	: 7628016	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/199,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: 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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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
LOUKS, Ronald A.
Application No.: 11/199,970
Filed: August 9, 2005
Attorney Docket No.: 9314-93

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUG 23 2006
OFFICE OF PETITIONS

E.J. Brooks & Associates, PLLC
Suite 500
1221 Nicollet Ave.
Minneapolis, MN 55403

In re Application of :

Kirstin Eichmann :
Application No. 11/199,975 : DECISION ON PETITION
Filed: August 8, 2005 : TO WITHDRAW
Attorney Docket No. 101.0010002 : FROM RECORD

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

Edward J. Brooks has been withdrawn as attorney or agent of record.

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

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

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Kirstin Eichmann
18027 Pine Canyon Court
Wildwood, MO 63005

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
11/199,975	08/09/2005	Kirstin Eichmann	101.0010002

CONFIRMATION NO. 3446

OC000000019963723

OC000000019963723

E.J. Brooks & Associates, PLLC
Suite 500
1221 Nicollet Ave.
Minneapolis, MN 55403

Date Mailed: 08/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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P.O. BOX 27613
WASHINGTON, DC 20038-7613

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Takanori Hattori	:	
Application No. 11/199,988	:	DECISION DISMISSING
Filed: August 10, 2005	:	PETITION UNDER
For: GAMING SYSTEM, GAME SERVER	:	37 CFR 1.47(b)
AND GAMING MACHINE	:	

This is in response to the Petition Under 37 CFR § 1.47, filed January 31, 2006, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 August 10, 2005, without an executed oath or declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") on September 7, 2005, requiring, *inter alia*, a fully executed oath or declaration.

In response to the Notice, Applicant files the instant petition and declaration of Nobuo Yaegashi. The petition asserts that Aruze Corporation ("Aruze") corporation has a proprietary interest in the above-identified application, and that the nonsigning inventor is under an obligation to assign to Aruze

the rights in this application. The Delaration provides further that Ms. Kayo Chaen telephoned the nonsigning inventor and in this telephone call the nonsigning inventor refused to sign a declaration/power of attorney and Assignment for this case.

Applicant has not filed an executed oath or declaration, nor has applicant filed any evidence to corroborate that Aruze has a proprietary interest in the above-identified application. Finally, Applicant has not filed a statement from Ms. Kayo Chaen attesting to the telephone conversation between her and the nonsigning inventor.

Applicable Law

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(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (1), (2) and (5) as set forth above.

As to item (1), where an express refusal to join in the application is alleged, the MPEP provides:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. (Emphasis supplied)

Here, Applicant has filed the declaration of Nobuo Yaegashi wherein Mr. Yaegashi attests to the telephone conversation between Ms. Chaen and the nonsigning inventor. A declaration from Ms. Chaen is required.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice President, Secretary, Treasurer, or Chief Executive Officer thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of the corporation, either proof of the attorney or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of the assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Steager v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Applicant must file an oath or declaration which includes the inventor information and is executed by a proper party as outlined above, to include the title or position of the person signing the oath or declaration. A properly executed oath or declaration for the above-identified application is required.

As to item (5), applicant failed to show or provide proof that Aruze, or anyone other than the inventors, have sufficient proprietary interest in the subject matter to justify the filing of the application (*see* MPEP 409.03(f)). Acceptable proof would

include a copy of an assignment of the invention by the inventors to the Rule 47(b) applicant; a copy of proof that the inventors have agreed in writing to assign the invention to the 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 47(b) applicant.

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

MPEP 409.03(f).

Applicant must provide a copy of an assignment of the invention by the inventors to the Rule 47(b) applicant; a copy of proof that the inventors have agreed in writing to assign the invention to the 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 47(b) applicant.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20038-7613

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of:	:	
Takanori Hattori	:	
Application No. 11/199,988	:	DECISION NOTING
Filed: August 10, 2005	:	JOINDER OF
Title of Invention:	:	INVENTOR
GAMING SYSTEM, GAME SERVER	:	
AND GAMING MACHINE	:	

This is in response to the Request for Reconsideration Petition Under 37 CFR 1.47(b), filed May 23, 2006, noting the joinder of the inventor.

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

The Declaration and Power of Attorney have been entered and made of record.

This application is being returned to the Office of Initial Patent Examination for further processing.

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

Derek L. Woods
Attorney
Office of Petitions

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JUAN CARLOS A. MARQUEZ
C/O STITES & HARBISON, PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314-1437

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Nobuhiko Kikuchi	:	
Application No. 11/200,036	:	DECISION GRANTING PETITION
Filed: August 10, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NITT0272	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 23, 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 4, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2613 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Nobuhiko Kikuchi	: DECISION ON REQUEST FOR
Patent Number	: 7650075	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,036	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **988** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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JUN 1 3 2008

OFFICE OF PETITIONS

In re Application of :
Chung-Hsing Tzu et al :
Application No. 11/200,054 : ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. 3199/33 :

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

The petition is **DISMISSED.**

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 7, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The power of attorney submitted with the petition on February 4, 2008 is not accepted. All communications received at the USPTO must be signed by all of the applicants. See 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Anthony Edw. J. Campbell
P.O. Box 160370
Austin, TX 78716-0370

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/200,054	Applicant(s) TZU ET AL.	
	Examiner KRISTA SODERHOLM	Art Unit 2826	

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

THE REPLY FILED 04 February 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: *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: *4*.
   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: the amendment to claim 4, adding the limitation "of uniform thickness" would require further consideration and search.

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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Daisuke Asai	: DECISION ON REQUEST FOR
Patent Number	: 7612908	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: 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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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 05/18/2010

Applicant : Daisuke Asai
Patent Number : 7612908
Issue Date : 11/03/2009
Application No : 11/200,067
Filed : 08/10/2005

: 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 **1070** 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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MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Sharon Buis :
Application No. 11/200,093 :
Filed: August 10, 2005 :
Attorney Docket No. 62247 :

ON PETITION

This is a decision on the petition, filed July 5, 2006, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the Nonfinal Office action mailed November 22, 2005.

The petition states that a reply was timely submitted on February 1, 2006, and that applicant's counsel inadvertently typed the wrong Serial No. (11/200,083 instead of 11/200,093) on the body of the amendment and also on the Information Disclosure Statement submitted on December 13, 2005. To support this assertion, the petitioner has submitted a copy of the response, along with the postcard receipts stamped by the USPTO on February 1, 2006 and December 13, 2006.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This matter is being referred to Technology Center AU 3636.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SMITH, GAMBRELL & RUSSELL, LLP
1850 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Nakoji et al.	:	DECISION GRANTING
Application No. 11/200,094	:	STATUS UNDER
Filed: August 10, 2005	:	37 CFR 1.47
For: DIAGNOSTIC APPARATUS FOR	:	
EVAPORATIVE EMISSION	:	
CONTROL SYSTEM	:	

This is in response to a Petition Under 37 CFR 1.47, filed August 10, 2005, and supplemented April 25, 2006, and May 23, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Yasushi Nakoji, cannot be found or reached after diligent effort.

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

The application file is being referred to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

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Mr. YASUSHI NAKOJI
HANAKOGANEI 5-20-3
KODAIRA-SHI
TOKYO, JAPAN

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Nakoji et al.	:	LETTER
Application No. 11/200,094	:	
Filed: August 10, 2005	:	
For: DIAGNOSTIC APPARATUS FOR	:	
EVAPORATIVE EMISSION	:	
CONTROL SYSTEM	:	

Dear Mr. Nakoji:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: SMITH, GAMBRELL & RUSSELL, LLP
1850 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Jae-yoon One	: DECISION ON REQUEST FOR
Patent Number	: 7620829	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,167	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **515** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Gaku Sudo	: DECISION ON REQUEST FOR
Patent Number	: 7569888	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,168	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **927** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, D.C. 20001-4413

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NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of :
White, et al. :
Application No. 11/200,174 :
Filed: August 10, 2005 :
Attorney Docket No. 08364.0069.02 :

ON PETITION

This is a decision on papers filed on October 24, 2005, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 10, 2005, including Page 1 of the specification.

The application was submitted on August 10, 2005 as a divisional of prior application No. 10/477,733. However, on September 1, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, and that Page 1 the specification appears to have been omitted.

In response, on October 24, 2005, the instant petition was submitted. Petitioner contends that Page 1 of the specification was in fact filed on August 10, 2005.

In support, petitioner has submitted a stamped postcard receipt that indicates the receipt in the PTO on August 10, 2005 of the following:

"1. Divisional Application Transmittal Letter (3 Pages)
2. Copy of Application S.N. 10/477,733 filed May 27, 3004 (105 pages)
3. Preliminary Amendment (9 Pages)
4. Information Disclosure Statement (2 Pages)
5. PTO/SB/08 (5 pages)
6. Check -- $1,450.00"

Petitioner's argument has been considered, but is not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals that Page 1 of the specification was not filed on August 10, 2005. Page 1 of the specification was not filed on August 10, 2005, since no such page is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner has submitted a postcard receipt that is date-stamped by the PTO as received on August 10, 2005. However, the postcard as noted above, does not specifically list the application papers submitted in the application on that date. The complete application papers submitted on August 10, 2005 are not itemized and no pages of specification are found to be itemized or properly identified on the postcard.

However, petitioner also notes that the above-identified application has incorporated by reference the disclosure of prior application 10/477,733.

The application transmittal letter and preliminary amendment identified this application as a divisional application of prior application No. 10/477,733, filed May 27, 2004, and specifically incorporated by reference the disclosure of the prior application. MPEP 201.06(c) states:

> B. Application Entitled to a Filing Date
>
> If an application as originally filed included a proper explicit incorporation by reference statement (or an explicit incorporation by reference statement that has been made effective under 37 CFR 1.57(g)), the omitted specification page(s) and/or drawing figure(s) may be added by amendment provided the omitted item(s) contains only subject matter in common with a document that has been properly incorporated by reference. If the Office identified the omitted item(s) in a "Notice of Omitted Item(s)," applicant need not respond to the "Notice of Omitted Item(s)." Applicant should, however, submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

If applicants desire that Page 1 of the specification be added to the application, the appropriate procedure is by way of amendment requesting the entry of the page. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is <u>dismissed</u>.

Please note, the petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 21 2008

In re Application of	:	
Yusuke Yamada et al	:	
Application No. 11/200,179	:	DECISION GRANTING PETITION
Filed: August 10, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00684.003330.5	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 20, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 4, 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 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Application of	:	
Yusuke Yamada et al	:	
Application No. 11/200,185	:	DECISION GRANTING PETITION
Filed: August 10, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00684.003330.6	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 3, 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 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/31/08

TO SPE OF : ART UNIT 2852 Spe GRAY David

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/200185 Patent No.: 7392467

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

/Susan S Lee/ Susan Lee for SPE DAVID GRAY 2852

SPE Art Unit

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6391 SPRINT PARKWAY
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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Nagi A. Mansour	: DECISION ON REQUEST FOR
Patent Number	: 7643406	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,186	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **759** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Yasuyuki Saito	: DECISION ON REQUEST FOR
Patent Number	: 7569966	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,198	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **612** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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MAR 30 2007
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In re Application of
DESIMONE, Joseph M. et al.
Application No. 11/200,218
Filed: August 09, 2005
Attorney Docket No. **9362-7IP2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2007.

The request is **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 Needham James Boddie II, on behalf of all attorneys of record who are associated with customer No. 20792. 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
Terri Williams
Petitions Examiner
Office of Petitions

cc: **JOSEPH M. DESIMONE**
7315 CRESCENT RIDGE DRIVE
CHAPEL HILL, NORTH CAROLINA 27516

cc: **SHAWN C. GLIDDEN**
MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADEPHIA, PA 19103

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
11/200,218	08/09/2005	Joseph M. DeSimone	9362-7IP2

CONFIRMATION NO. 4197

OC000000023179227

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 03/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

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

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

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/200,251	08/08/2005	1761	1130	115-648		19	2

CONFIRMATION NO. 2012

UPDATED FILING RECEIPT

OC000000017316404

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

Date Mailed: 10/24/2005

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)

Francis J. Parker, Green Bay, WI;

Power of Attorney:

Gustavo Siller Jr--32305
Jasper Dockrey--33868
S M Bennett--53981

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/200,251

Projected Publication Date: 02/08/2007

Non-Publication Request: No

Early Publication Request: No

Title

Organic-oil-based food product

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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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Roger Gene Edwards	:	DECISION ON PETITION
Application No. 11/200,255	:	TO WITHDRAW
Filed: August 9, 2005	:	FROM RECORD
Attorney Docket No. 24400-0002-CON1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2006.

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

A review of the file record indicates that the power of attorney to practitioners associated with Calfee Halter & Griswold, LLP, has been revoked by the assignee of the patent application on March 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
John David HAMRE, et al	:	
Application No. 11/200,258	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO WITHDRAW
Attorney Docket No. 12583.30USU1	:	FROM RECORD
	:	

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN DAVID HAMRE
17515 45TH AVENUE NORTH
PLYMOUTH, MN 55446

WAVECREST CORPORATION
7610 EXECUTIVE DRIVE
EDEN PRAIRIE, MN 55344

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THOMAS W. EPTING
LEATHERWOOD WALKER TODD & MANN, P.C.
300 EAST MCBEE AVENUE, SUITE 500
P.O. BOX 87
GREENVILLE, SC 29601

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles A. Uzes	:	
Application No. 11/200,264	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 133221.1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 4, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes an affidavit from Inventor Charles A. Uzes stating that he is 65 years old. 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 3662 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Satoshi Iwaki	: DECISION ON REQUEST FOR
Patent Number	: 7657435	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,288	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

7-8-2010

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Patent No. : 7,657,435 B2
Ser. No. : 11/200,288
Inventor(s) : Satoshi Iwaki, et. al.
Issued : February 2, 2010

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.

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Khaled Shami, Esq.
Nixon Peabody, LLP
P.O. Box 60610
Palo Alto, CA 94306

ej

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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OFFICE OF PETITIONS

In re Application of

Pekka E. Rapeli

Application No. 11/200,298

Filed: August 10, 2005

Attorney Docket No. 43289-222056

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed April 22, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 14, 2007, after it was believed that no response was received to the non-final Office action mailed August 13, 2007. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 25, 2008, indicating that a reply to the non-final Office action was not received.

Petitioner states that an amendment responsive to the non-final Office action was filed on February 12, 2008, with a request for an extension of time within the third month. A review of the application file reveals that an amendment was filed on February 12, 2008, with a request for an extension of time within the third month. Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3612 for further processing including review of the amendment filed February 12, 2008.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Carroll	:	
Application No. 11/200,303	:	DECISION ON PETITION
Filed: August 9, 2005	:	
Attorney Docket No. 67397-050 PUS1	:	

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 March 1, 2007 for failure to timely file a proper reply to the non-final Office action mailed November 29, 2006. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was timely requested. This decision precedes Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the non-final Office action, (2) the required petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3748 for appropriate action by the Examiner in the normal course of business on the reply received

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SUITE 350
BIRMINGHAM, MI 48009

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OFFICE OF PETITIONS

In re Application of Carroll :
Application No. 11/200,303 :
Filing Date: August 9, 2005 :
Attorney Docket No. 67397-050PUS1;1940 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on February 11, 2008. The Office action set a shortened statutory period for reply of three (3) months. Petitioner filed a reply on April 14, 2008 (Certificate of Mailing Date of April 8, 2008). An Advisory action was mailed June 4, 2008.

When a reply is filed within two months of the date the final Office action was mailed, and an advisory action is not mailed until more than three months after the date the final Office action was mailed, the application shortened statutory period expires on the date the advisory action is mailed which was June 4, 2008. Since an extension of time was never obtained, the application became abandoned as of June 5, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has filed a reply to the final Office action in the form of a Request for Continued Examination and submission. Petitioner has submitted the required petition fee of $1,540. 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.

Technology Center Art Unit 3748 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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SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/28/2010

Applicant	: Joseph P. Carroll	: DECISION ON REQUEST FOR
Patent Number	: 7607299	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/200,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: 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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HOLME ROBERTS & OWEN, LLP
299 SOUTH MAIN
SUITE 1800
SALT LAKE CITY UT 84111

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of

Dennis B. Brown

Application No. 11/200,318

Filed: August 9, 2005

Attorney Docket No. 45824-01130

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed February 2, 2009, which will be treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned after it was believed that the response to the final Office action filed June 9, 2008, was untimely. The final Office action was mailed on January 8, 2008, allowing a shortened statutory period for reply of three months from its mailing date. Extension of the time set for reply were available pursuant to 37 CFR 1.136(a). On June 9, 2008, applicant filed a Notice of Appeal with a request for extension of time within the second month. A Notice of Abandonment was mailed on December 22, 2008, stating that the response of June 9, 2008, is noted but was untimely as it was accompanied by only an extension of time within the second month (intimating that an extension of time within the third month was required to make the response timely). The instant petition was filed on February 2, 2009, requesting revival of the application under 37 CFR 1.137(b).

It is noted that June 8, 2008—the final date for response to the final Office action with an extension of time within the second month—fell on a Sunday. Accordingly, the response to the final Office action filed on Monday June 9, 2008, would be timely as this date was the next business day after the last day for filing the response within the second month of the extended statutory period for reply. See 37 CFR 1.7. Based on the aforementioned, the holding of abandonment was improperly imposed and is withdrawn, accordingly.

The petition fee of $1,620.00 will be refunded, in due course. It is also noted that a request for extension of time within the third month was paid on February 2, 2009. The extension of time was not necessary in this instance as the application was already in an abandoned status when the fee was paid. The amount of $650.00 will also be refunded.

The Notice of Appeal, filed June 9, 2008, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being forwarded Technology Center 3700, GAU 3754, to await the filing of the appeal brief.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JAN 22 2010

OFFICE OF PETITIONS

K&L Gates, LLP
1900 MAIN STREET, SUITE 600
IRVINE, CA 92614-7319

In re Application of
Mary M. Morris, et. al.
Application No. 11/200,345
Filed: August 8, 2005
Attorney Docket No. P10506.06 CIP

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed November 10, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

Petitioner states, "The Applicants failure to receive the Office Action dated March 20, 2009 was due to the Office's error in processing the Power of Attorney submitted to the Office on March 13, 2009. The Office inadvertently revoked Power of Attorney to the correct entity and gave Power of Attorney to the incorrect entity. Due to this error, the Office action dated March 20, 2009 was returned to the Office as undeliverable."

A review of the written record indicates an irregularity in the mailing of the non-final Office action of March 23, 2009. In this regard, the Office received a Power of Attorney on March 13, 2009; however, Office records were not updated to reflect this new change of address. Accordingly, as the Notice was mailed to an incorrect address, the petition is **GRANTED** and the holding of abandonment is hereby withdrawn.

This application is being referred to the Technology Center Art Unit 1618, for re-mailing the Office action of March 23, 2009. The period for reply will run from the mailing date of the Office action.

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

Andrea Smith
Petitions Examiner
Office of Petitions

OIPE
FEB 27 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:

Kemal Burkay

Serial No.: 11/200,365 Group Art Unit: ~~3744~~ 1724

Filed: 08/09/2005 Examiner: Not Yet Assigned Hopkins, R

Title: Polluted Air Treatment Method and System Confirmation No.: 3295

Commissioner for Patents
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Alexandria, Virginia 22313-1450

PETITION TO MAKE SPECIAL BECAUSE OF ENVIRONMENTAL QUALITY (37 C.F.R. §1.102(c) and M.P.E.P. §708.02 V)

Applicant hereby renews his petitions to make this application special because it is for an invention that materially enhances the quality of the environment or mankind, by contributing to the restoration or maintenance of the basic life-sustaining material elements (air, water, and/or soil).

The original petition was rejected on or about November 15, 2005 because the Petitions Examiner concluded that the statement provided by Applicant, Kemal Burkay, was by itself insufficient to explain how the materiality standard is being met. Specifically, the Petitions Examiner reached this position based on the statement that "the present invention is for a system and method for effectively eliminating all impurities from an exhaust air stream[.]" However, the newly presented declaration by Mr. Burkay should meet the materiality standard since his new declaration includes test results performed by an independent testing entity which clearly demonstrates that the claimed invention materially enhances the quality of the environment by contributing to the restoration and/or maintenance of one of the basi

MAR 14 2006
PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph M. Desimone, et al.	:	
Application No. 11/200,370	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO WITHDRAW
Attorney Docket No. 9362-7IP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 17, 2007.

The request is **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 Needham James Boddie, II on behalf of all attorneys of record who are associated with customer No. 20792.

All attorneys/agents associated with the Customer Number 20792 have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOSEPH M. DESIMONE
7315 CRESENT RIDGE DRIVE
CHAPEL HILL, NC 27516

cc: SHAWN C. GLIDDEN
MORGAN, LEWIS & BOCKIUS. LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103

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
11/200,370	08/09/2005	Joseph M. DeSimone	9362-7IP

CONFIRMATION NO. 3274

OC000000024623182

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 07/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

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

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

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EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of

LANN, Ameet et al.
Application No. 11/200,387
Filed: August 09, 2005
Attorney Docket No. **ELG-P-5823-US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	: DECISION ON PETITION
Andrew Welcher et al.	: UNDER 37 CFR 1.78(a)(3)
Application No. 11/200,389	: and
Filed: August 8, 2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 99-372-F1	:

This is a decision on the petition filed December 23, 2008, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications 09/927,850 filed August 10, 2001 and 09/724,860 filed November 8, 2000, and under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application 60/8169,720 filed December 8, 1999, which are 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) 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.

The petition does not satisfy item (1) above.

There does not appear to be copendency between the present application and application no. 09/927,850. A final Office Action was mailed July 6, 2004. In response a Notice of Appeal was filed January 6, 2005 with a three month extension of time, to which an Appeal Brief was due by March 6, 2005 or with a five month extension of time, could have been filed August 6, 2005. A request for an extension of time was not made in the 09/927,850 application. Thus, the '850 application became abandoned as of midnight August 6, 2005 and was not active when the present application was filed August 8, 2005. It is suggested that petitioners file a petition for revival in the '850 application for the purposes establishing copendency with the present application. This is provided that the '850 application was not intentionally abandoned by applicant.

Further, the reference to add the prior-filed application on page one following the first sentence of the specification 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).

The specification provided on filing did not incorporate by reference non-provisional applications 09/927,850 and 09/724,860 as well as 60/169,720 as does the amendment filed with the instant petition.

Finally, the amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the priority claim is not in the proper form and must be in an amendment, not physically part of any other document as the response and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40I Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

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
11/200,444	08/08/2005	1636	745	34100/US/4	10	16	2

CONFIRMATION NO. 3625

UPDATED FILING RECEIPT

OC000000020648568

Robin M. Silva, Esq.
Dorsey & Whitney LLP
Intellectual Property Department
555 California Street, Suite 1000
San Francisco, CA 94104-1513

Date Mailed: 10/02/2006

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)

John R. Desjarlais, Pasadena, CA;
Jonathan Zalevsky, Riverside, CA;

Assignment For Published Patent Application

Xencor, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **32940**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/820,466 03/31/2004
which claims benefit of 60/459,094 03/31/2003

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/200,444

Projected Publication Date: 01/11/2007

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods for rational PEGylation of proteins

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON, TX 77070

Mail Date: 04/21/2010

Applicant	: Houfei Chen	: DECISION ON REQUEST FOR
Patent Number	: 7660708	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,449	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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20333 SH 249 6th Floor
HOUSTON, TX 77070

Mail Date: 04/21/2010

Applicant	: Houfei Chen	: DECISION ON REQUEST FOR
Patent Number	: 7660708	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,449	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

APPROVED: /MS/

Attorney's Docket No.: 12406-0194001 / P2005,0868 US E

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Su et al.	Art Unit	: 2823
Patent No.	: 7,576,356	Examiner	: William D Coleman
Issue Date	: August 18, 2009	Conf. No.	: 3891
Serial No.	: 11/200,453		
Filed	: August 8, 2005		
Title	: SOLUTION PROCESSED CROSSLINKABLE HOLE INJECTION AND HOLE TRANSPORT POLYMERS FOR OLEDS		

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REQUEST FOR CERTIFICATE OF CORRECTION

Applicant hereby requests that a certificate of correction be issued for the above patent in accordance with the attached request.

All errors sought to be corrected were made in printing by the Patent and Trademark Office, and no fee is believed to be due.

No fee is believed to be due. If, however, there are any charges or credits, please apply them to Deposit Account No. 06-1050.

Respectfully submitted,

Date: August 31, 2009

/Jennifer A. Zanocco/
Jennifer A. Zanocco
Reg. No. 54,563

Customer No. 26181
Fish & Richardson P.C.
Telephone: (650) 839-5070
Facsimile: (877) 769-7945

50670846.doc

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. .: 7,576,356

APPLICATION NO .: 11/200,453

DATED .: AUGUST 18, 2009

INVENTOR(S) .: WENCHENG SU AND FRANKY SO

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

Column 11, Line 1 at Claim 15; replace:
"The device of claim 1 wherein said crosslinkable hole" with
-- The device of claim 10 wherein said crosslinkable hole --

Column 11, Line 9 at Claim 17; replace:
"($FeCl_3$), ferric bromide ($FeBr_3$), antimony pentachioride" with
-- ($FeCl_3$), ferric bromide ($FeBr_3$), antimony pentachloride --

Column 12, Lines 14-15 at Claim 30; replace:
"material that is a small molecule material that is a small molecule material with a polymer binder" with
-- material that is a small molecule material with a polymer binder --

Column 12, Line 34 at Claim 33; replace:
"and" with
-- and, --

MAILING ADDRESS OF SENDER:

Jennifer A. Zanocco
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090914

DATE : September 14, 2009

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7576356

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:

All the changes are approved as mere printing errors.

/MATTHEW SMITH/
Supervisory Patent Examiner.Art Unit 2823

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,576,356	:	DECISION ON REQUEST
Su et al.	:	FOR RECONSIDERATION OF
Issued: August 18, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/200,453	:	& NOTICE OF INTENT TO
Filed: August 8, 2005	:	ISSUE CERTIFICATE OF
Atty Docket No. 12406-194001 /	:	CORRECTION
P2005,0868	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed November 3, 2009. Pursuant to patentees' duty of good faith and candor to the Office, patentees request confirmation of the issuance of a patent term adjustment of 155 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **seventy-five (75)** days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under 37 CFR § 1.136.

On August 18, 2009, the above-identified application matured into U.S. Patent No. 7,576,356, with a revised patent term adjustment of 155 days. On November 3, 2009, patentees submitted the instant request. Patentees assert the patent term for the application is longer than appropriate because the Office's calculations do not take into account two instances of additional Applicant delay. Patentees direct the Office's attention to "a late reply to an Office action filed in February 2008, as well as to a supplemental Information Disclosure

Statement filed in March 2008, for which no Applicant Delay was assessed."

With respect to the late reply filed February 28, 2008, 37 CFR 1.704(b) provides:

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

In response to the September 28, 2007 final Office action, patentees filed a Request for Continued Examination (RCE) on February 28, 2008. The Office concurs with patentees that an additional period of delay should be assessed for the filing of the February 28, 2008 RCE. Pursuant to 37 CFR § 1.704(b), any patent term adjustment in this application is subject to a reduction of 62 days for applicant delay for the period beginning on December 29, 2007, the day after the date that is three months after the mailing date of the September 28, 2007 final Office action, and ending on February 28, 2008, the date the reply in compliance with 37 CFR §1.113(c) was filed. Accordingly, a reduction of 62 days will be entered.

With respect to the supplemental IDS filed on March 17, 2008, 37 CFR 1.704(c)(8) states 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.

After filing a response on February 28, 2008, patentees filed a supplemental IDS on March 17, 2008. The record does not support a conclusion that the supplemental IDS was expressly requested by the examiner. Further, a review of the supplemental IDS filed March 17, 2008, reveals that it did not include the proper

§ 1.704(d) statement.[1] Thus, patentees failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 18 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, February 29, 2008, and ending on the date that the supplemental IDS was filed, March 17, 2008. Accordingly, a period of reduction of 18 days will be entered.

In view of the previous discussion, the patent should have issued with a revised Patent Term Adjustment of **seventy-five (75)** days.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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 **seventy-five (75)** days.

---

[1] Patentees are reminded that 37 CFR 1.704(d) was revised, effective May 24, 2004, as follows:

> 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.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,576,356 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Su, 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 155 days

Delete the phrase "by 155 days" and insert – by 75 days--

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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TYCO HEALTHCARE GROUP LP
D/B/A COVIDIEN
15 HAMPSHIRE STREET
MANSFIELD MA 02048

MAILED
JUL 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Frank A. Cable Jr., et al	:	
Application No. 11/200,460	:	DECISION ON PETITION
Filed: August 8, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1502-51	:	

This is a decision on the petition filed May 21, 2010, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granti ng of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The 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.

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.

The application is being forwarded to Technology Center AU 3751 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

/KOC/
Karen Creasy
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc:

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD, SUITE 420
MELVILLE, NEW YORK 11747

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
11/200,460	08/08/2005	3751	3630	1502-51	65	3

CONFIRMATION NO. 3894

CORRECTED FILING RECEIPT

55825
Tyco Healthcare Group LP
d/b/a Covidien
15 Hampshire Street
Mansfield, MA 02048

OC000000042495468

Date Mailed: 07/09/2010

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

Applicant(s)

Frank A. Cable JR., Amherst, MA;
Mark Tauer, Belchertown, MA;
Andrew Fetterroll, Chicopee, MA;

Power of Attorney: The patent practitioners associated with Customer Number 55825

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/639,182 12/22/2004
and claims benefit of 60/614,503 09/30/2004
and claims benefit of 60/599,927 08/09/2004

Foreign Applications

If Required, Foreign Filing License Granted: 08/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/200,460**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MEDICAL SKIN APPLICATOR APPARATUS

Preliminary Class

401

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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15 FEB 2006

Charles H. DeVoe
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204

In re Application of	:	
MacIver et al.	:	
PCT No.: PCT/US05/03823	:	
Filing Date: 02 February 2005	:	DECISION
Priority Date: 03 February 2004	:	
Attorney's Docket No.: MAT3M5PCT	:	
For: BOARD GAME WITH AUDIBLE TIMER	:	

This is a decision on applicant's "RESPONSE TO INVITIATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION" filed on 04 August 2005, which has been treated as a petition under 37 CFR 1.182. The $400 petition fee has been charged to applicant's deposit account.

BACKGROUND

On 02 February 2005, applicants submitted application papers that included a "TRANSMITTAL LETTER TO THE UNITED STATES RECEIVING OFFICE" (form PTO-1382) which indicated "This is a new international application"; a "FEE TRANSMITTAL" (form PTO/SB/17) and the $1000 fee for filing a utility application; 6 pages of description, 3 pages of claims, 1 page abstract; and, a "DECLARATION FOR PATENT APPLICATION" and POWER ATTORNEY." These papers were assigned international application number PCT/US05/03823.

On 27 June 2005, the United States Receiving Office mailed applicant the "INVITATION TO CORRECT THE PURPORTED INTERNATIONAL APPLICATION" (form PCT/RO/103) indicating that a filing date had not been accorded since no Request (form PCT/RO/101) had been filed, and applicant lacked for reasons of residence and nationality the right to file an international application with this receiving Office.

On 08 August 2005, applicant filed a copy of this application along with a request that this application be treated as a utility application having the original filing date of 02 February 2005. Instead, the application papers filed on 08 August 2005 were assigned serial number 11/200,467 and that application was assigned a filing date of 08 August 2005.

On 04 October 2005, applicant filed the current response indicating that the application was intended to be a utility application. This response was accompanied by a "TRANSMITTAL LETTER TO THE UNITED STATES RECEIVING OFFICE" (form PTO-1382).

DISCUSSION

In the originally filed papers filed by applicant, each page of the description claims and drawings were labeled "NON-PPROVISIONAL PATENT APPLICATION." Applicant also used a utility fee form and paid the fees for a utility patent application. Further, applicant filed a Declaration and power of attorney which referenced sections of 37 CFR.

In view of the fact that applicant indicated a desire to have the application treated as a regular U.S application, the papers submitted on 02 February 2005 will be accepted as a regular U.S. application filed under 35 U.S.C. 111 with a filing date of 02 February 2005. Copies of the application papers in this application will be scanned into the electronic version of the national application on filed.

Applicant should note that it is not appropriate to file a utility application together with a transmittal letter to the United States receiving Office. In the future, applicant should use the transmittal letter for utility applications, when filing a new utility application.

CONCLUSION

The petition under 37 CFR 1.182 to treat the papers as a regularly filed United States application filed under 35 U.S.C. 111 is hereby **GRANTED**.

These papers are being forwarded to the scanner to be included in application serial number **11/200,467**.

Application serial number **11/200,467** has been accorded a filing date of 02 February 2005.

The **$400** petition fee has been charged to applicant's **deposit account # 11-1540**.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

cc: International Bureau of WIPO

Enc: Form PCT/RO/104

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FOUNTAINHEAD LAW GROUP
900 LAFAYETTE STREET, SUITE 509
SANTA CLARA, CA 95050

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Self, Paul William Ronald	:	
Application No. 11/200,472	:	DECISION GRANTING PETITION
Filed: August 9, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 000012-000500US	:	

This is a decision on the petition, filed March 20, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 18, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 15, 2007, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2817 for examination in due course.

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

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/200,472	08/09/2005	Paul William Ronald Self	000012-000500US

CONFIRMATION NO. 4146

Fountainhead Law Group
Suite 509
900 Lafayette Street
Santa Clara, CA 95050

Date Mailed: 07/17/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/15/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Dickinson Wright, PLLC
1875 Eye Street, NW
Suite 1200
Washington, DC 20006

Mail Date: 04/20/2010

Applicant	: Erich Gottwald	: DECISION ON REQUEST FOR
Patent Number	: 7619812	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,478	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **593** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	: Ki-chul Kim	: DECISION ON REQUEST FOR
Patent Number	: 7586137	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **516** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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NOV 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Chien, et al.	:	
Application No. 11/200,497	:	DECISION ON PETITION
Filed: August 8, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 021653-016600US	:	

This is a decision on the petition under 37 CFR 1.55(c), filed August 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Chinese Application No. 200510028650.8, filed August 5, 2005.

The petition is **GRANTED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that the instant application is not entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 119 and 37 CFR 1.55 must be met. Accordingly, the examiner will, in due course, consider the benefit claim and determine whether the instant application is entitle to the benefit of the earlier filing date.

The application is being forwarded to Group Art Unit 2863 for consideration of the foreign priority claim set forth in the ADS filed August 13, 2009.

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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TWO EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Wei-Ting Kary Chien	: DECISION ON REQUEST FOR
Patent Number	: 7660699	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1090** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Arvin Shmilovich	: DECISION ON REQUEST FOR
Patent Number	: 7635107	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1170** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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253 West 35th Street, Sixth Floor
New York NY 10001

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MAR 30 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nevin, et al. :
Application No. 11/200,520 :
Filed: August 8, 2005 :
Attorney Docket No. 03770/0202058-US0 :
For: MANAGEMENT OF EXPERT RESOURCES USING SEEKER PROFILES

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2009 (certificate of mailing date March 3, 2009), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the final Office action mailed February 26, 2008, which set an extendable three month period for reply. No reply being filed or extension of time being obtained under 37 CFR 1.136(a), this application became abandoned on May 27, 2008. A Notice of Abandonment was mailed on November 5, 2008.

Applicants have submitted a RCE and required $405.00 fee and amendment as the submission in reply to the February 26, 2008 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 26, 2008 final Office action, and the $810.00 petition fee.

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, practitioner 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, practitioner 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.

After the mailing of this decision the application will be forwarded to Technology Center AU 2129 for consideration of the RCE and amendment filed on March 9, 2009 (certificate of mailing date March 3, 2009).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: THOMAS CARULLI
KAPLAN VON OHLEN & MASSAMILLO
555 5TH AVENUE
NEW YORK NY 10017

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THOMAS G. CARULLI
KAPLAN VON OHLEN & MASSAMILLO
555 5TH AVENUE
NEW YORK NY 10017

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Nevin et al.	:	
Application No. 11/200,520	:	DECISION GRANTING PETITION
Filed: August 8, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 03770/0202058-US0	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 7, 2009, 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 concurrently with the instant 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.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally

delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

This matter is being referred to Technology Center Art Unit 2129 for appropriate action on the amendment filed May 7, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

/Liana Walsh/
Liana Walsh
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
11/200,520	08/08/2005	2129	940	03770/0202058-US0	27	5

CONFIRMATION NO. 2583

CORRECTED FILING RECEIPT

Thomas G. Carulli
Kaplan von Ohlen & Massamillo
555 5th Avenue
New York, NY 10017

OC000000039048088

Date Mailed: 12/02/2009

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)

James B. Nevin, New York, NY;
Abraham Zelkin, Oyster Bay, NY;
Richard W. Mason, Cos Cob, CT;
John Steinhoff, New York, NY;

Assignment For Published Patent Application

XpertUniverse, Inc., New York, NY

Power of Attorney:
Thomas Carulli--30616

Domestic Priority data as claimed by applicant

This application is a CON of 11/097,967 03/31/2005 PAT 7,366,709
which claims benefit of 60/559,097 04/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/200,520**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Management of expert resources using seeker profiles

Preliminary Class

706

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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720 WATER STREET
TOLEDO, OH 43604-1619

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	
Application No. 11/200,522	:	DECISION ON PETITION
Filed: August 9, 2005	:	
Attorney Docket No. 1-27418	:	

This is a decision on the petition, filed August 11, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Non Final Office action of December 18, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before March 18, 2009.

Petitioner states that a timely reply was mailed via certificate of mailing on June 18, 2009, which included the following papers: an amendment including a three (3) month extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing date June 18, 2009, which would render the reply timely.

A review of the file record does in fact indicate that the response filed June 18, 2009, via certificate of mailing was received by the Office.

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 December 18, 2009 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1791 for appropriate action in the normal course of business on the reply received with petition.

Chris Bottorff
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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AUG 23 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Robert L. Arslanian	:	
Application No. 11/200,525	:	DECISION ON PETITION
Filed: August 8, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 020547-001911US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed applications as forth in the accompanying Application Data Sheet (ADS).

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, 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 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application(s). In order for the application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(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 applications, accompanies this decision on petition.

This application is being forwarded to the examiner of Technology Center Art Unit 1625 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, 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
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/200,525	08/08/2005	1625	3630	020547-001911US	1	1

CONFIRMATION NO. 2588

CORRECTED FILING RECEIPT

OC000000025505745

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

Date Mailed: 08/22/2007

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)

Robert L. Arslanian, Pacifica, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/957,483 09/19/2001 PAT 6,998,256
which is a CIP of PCT/US01/13793 04/26/2001
which is a CIP of 09/825,856 04/03/2001 PAT 6,489,314
and is a CIP of 09/825,857 04/05/2001 ABN
and is a CIP of 09/560,367 04/28/2000 PAT 6,410,301
and claims benefit of 60/269,020 02/13/2001
and claims benefit of 60/257,517 12/21/2000
and claims benefit of 60/232,696 09/14/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/200,525

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Production of polyketides

Preliminary Class

549

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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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DEC 05 2007
OFFICE OF PETITIONS

In re Application of :
Robert L. Arslanian :
Application No. 11/200,525 : DECISION ON PETITION
Filed: August 8, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 020547-001911US

This is a decision on the supplemental petition under 37 CFR 1.78(a)(3), filed on October 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120, for the benefit of priority to prior-filed nonprovisional Application No. 09/825,876 filed April 3, 2001.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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.

A review of the record discloses that while the original petition sets forth the correct prior filed applications for which priority is being claimed, the accompanying ADS failed to include the correct

[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).

prior filed applications. A reference to all the prior-filed nonprovisional applications, including Application No. 09/825,876, have now been included in an ADS filed October 26, 2007. Accordingly, having found that the instant petition satisfies the conditions of 37 CFR § 1.78(a)(3) for acceptance of an unintentionally delayed corrected claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim of benefit to the prior-filed application is granted.

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 Sherry D. Brinkley 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 1625 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
11/200,525	08/08/2005	1625	3630	020547-001911US	1	1

CONFIRMATION NO. 2588

CORRECTED FILING RECEIPT

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

OC000000026967879

Date Mailed: 11/29/2007

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)

Robert L. Arslanian, Pacifica, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

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which is a CIP of PCT/US01/13793 04/26/2001
which is a CIP of 09/825,856 04/03/2001 PAT 6,489,314
and is a CIP of 09/825,876 04/03/2001 PAT 6,589,968
and is a CIP of 09/560,367 04/28/2000 PAT 6,410,301
and claims benefit of 60/232,696 09/14/2000
and claims benefit of 60/257,517 12/21/2000
and claims benefit of 60/269,020 02/13/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/200,525**

Projected Publication Date: 12/06/2007

Non-Publication Request: No

Early Publication Request: No

Title

PRODUCTION OF POLYKETIDES

Preliminary Class

549

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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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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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JUN 18 2010

OFFICE OF PETITIONS

PIONEER HI - BRED
INTERNATIONAL, INC.
7250 NW 62ND AVENUE
JOHNSTON IA 50131-0552

In re Application of :
Lu et al. :
Application No. 11/200,526 :
Filed: August 8, 2005 :
For: GENETIC LOCI ASSOCIATED :
WITH FUSARIUM SOLANI TOLERANCE :
IN SOYBEAN :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE AND REISNTSTATEMENT OF PART OF THE PERIOD OF ADJUSTMENT REDUCED PURSUANT TO §1.704(B)" filed June 26, 2010. Applicants request that the determination of patent term adjustment be corrected from one hundred seventy-nine (179) days to five hundred ninety-two (592) days.

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].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

On August 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified

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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.

application. The Notice stated that the patent term adjustment to date is 179 days. The instant application for patent term adjustment was timely filed on June 26, 2010.

Applicants dispute the 122-day reduction for the submission of a response to the Notice of Non-Compliant Amendment of March 23, 2009. Applicants contend that the Notice of Non-Compliant Amendment was mailed in error. Thus the reduction of 122 days, should be removed.

Applicants' argument has been considered and determined to be convincing. A review of the record shows that the Notice of Non Compliant Amendment was improperly mailed as is referenced by applicants' response on April 6, 2009. As such the 122 day reduction will be removed.

Applicants further state as a consequence of the removal of the 122 days, an adjustment of 51 days should be made for Office delay in mailing the Notice of Allowance in response to the December 5, 2008 response.

Pursuant to 37 CFR 1.703(a)(2), an adjustment of 51 days is warranted. The 51 days is based on the number of days, beginning on the day after the date that is four months after the date a reply under § 1.111 was filed April 6, 2009 and ending on the date of the notice of allowance May 26, 2009.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is three hundred fifty-two **(352)** 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). The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

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.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Thursday
Date: 6/17/2010

PALM INTRANET

Time: 12:41:02

PTA Calculations for Application: 11/200526			
Application Filing Date:	08/08/2005	PTO Delay (PTO):	338
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	159
Post-Issue Petitions:	0	Total PTA (days):	352
PTO Delay Adjustment:	173		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	06/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	173		
65	05/26/2009	MAIL NOTICE OF ALLOWANCE			
64	05/23/2009	DOCUMENT VERIFICATION			
63	05/23/2009	ISSUE REVISION COMPLETED			
62	05/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	05/13/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
60	05/14/2009	EXAMINER'S AMENDMENT COMMUNICATION			
59	05/14/2009	NOTICE OF ALLOWABILITY			
53	04/17/2009	DATE FORWARDED TO EXAMINER			
52	04/06/2009	RESPONSE AFTER NON-FINAL ACTION		122	48
51	03/23/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
50	12/01/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	01/15/2009	DATE FORWARDED TO EXAMINER			
48.1	12/05/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
48	12/05/2008	RESPONSE AFTER NON-FINAL ACTION			
47	12/01/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
46	12/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	09/05/2008	MAIL NON-FINAL REJECTION			
44	09/02/2008	NON-FINAL REJECTION			
43	06/26/2008	DATE FORWARDED TO EXAMINER			
42	05/14/2008	RESPONSE AFTER NON-FINAL ACTION		30	40

41	05/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	01/14/2008	MAIL NON-FINAL REJECTION			
39	01/07/2008	NON-FINAL REJECTION			
38	11/01/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	11/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	04/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	10/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	11/02/2007	DATE FORWARDED TO EXAMINER			
33	10/30/2007	SUPPLEMENTAL RESPONSE		7	30
32	10/23/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
31	10/25/2007	DATE FORWARDED TO EXAMINER			
30	10/23/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
29	10/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	10/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	09/11/2007	MAIL RESTRICTION REQUIREMENT	338		-1
26	09/04/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
25	08/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	04/02/2007	REFERENCE CAPTURE ON IDS			
23.7	04/02/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
23	04/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22.7	11/06/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
22	11/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	11/07/2006	CORRESPONDENCE ADDRESS CHANGE			
20	11/07/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19.7	11/01/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
19	11/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

18	02/23/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	11/04/2005	PRELIMINARY AMENDMENT			
16	02/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	11/16/2005	APPLICATION RETURN FROM OIPE			
14	11/16/2005	APPLICATION IS NOW COMPLETE			
13	11/16/2005	APPLICATION RETURN TO OIPE			
12	11/16/2005	APPLICATION DISPATCHED FROM OIPE			
11	11/16/2005	APPLICATION IS NOW COMPLETE			
10	11/02/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	11/02/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
7	11/02/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	11/10/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	09/28/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/29/2005	CLEARED BY L&R (LARS)			
3	08/18/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	08/16/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/08/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

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OFFICE OF PETITIONS

HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

In re Application of
Wilferd U. Westerman
Application No. 11/200,528
Filed: August 9, 2005
Attorney Docket No. BX001

DECISION DISMISSING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 28, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner indicates that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A Request to Rescind was filed with the petition on March 28, 2007; however, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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AUG 21 2008

HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

In re Application of
Wilfred J. Westerman
Application No. 11/200,528
Filed: August 9, 2005
Attorney Docket No. BX001

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 23, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f). The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

Petitioner indicates that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country in August of 2006. However, the USPTO was unintentionally not notified of the filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 November 27, 2008 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to the Technology Center 1615.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/200,528	08/09/2005	Wilferd J. Westerman	BX001

CONFIRMATION NO. 2378

25235
HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

NONPUBLICATION RESCISSION LETTER

OC000000031677800

Date Mailed: 08/20/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/27/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/sdbrinkley/

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

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PIONEER HI-BREED INTERNATIONAL, INC.
7250 NW 62ND AVENUE
PO BOX 552
JOHNSTON, IA 50131-0552

Mail Date: 04/21/2010

Applicant	: Scott Sebastian	: DECISION ON REQUEST FOR
Patent Number	: 7582806	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **582** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 MARBURY LAW GROUP, PLLC
11800 SUNRISE VALLEY DRIVE, SUITE 1000
RESTON, VA 20191

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AUG 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Brian A. ROSENFELD, et al.	:	
Application No. 11/200,554	:	DECISION GRANTING PETITION
Filed: August 10, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2483-007**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 11, 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 June 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3686 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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EAST HARTFORD CT 06108

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OFFICE OF PETITIONS

In re Application of
Proscia et al.
Application No. 11/200,563
Filed: August 10, 2005
Attorney Docket No. EH-11601

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 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 December 28, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 28, 2007. Accordingly, the date of abandonment of this application is December 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 payment of the issue fee of $1,440.00 and publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

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

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.

Also, the address given on the petition differs from the address of record. A change of address was filed on March 26, 2007. However, this was not a proper change of address since it was provided by an assignee but was not accompanied by a required statement under 37 C.F.R. 3.73(b). If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Theodore W. Olds
400 West Maple Road
Suite 350
Birmingham, MI 48009

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MAR 06 2008

TECHNOLOGY CENTER 3600

Rankin, Hill & Clark LLP
38210 Glenn Avenue
Willoughby, OH 44094-7808

In re application of
Toshiyuki Kuze et al.
Application No. 11/200,573
Filed: August 10, 2005
For: SENSOR SETUP STRUCTURE

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed December 28, 2007, to make the above-identified application special.

The request and petition are **DISMISSED as MOOT**.

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 the latest Office action 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 is not grantable as per item (4) above in that examination of the U.S. application has already begun. A non-final rejection was mailed February 4, 2008.

No time period for reply to this decision is available since an Office action on the merits has already been mailed.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm: 3/5/08

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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.
11/200,581	08/09/2005	Norbert M. Assion	016A.0003.U1(US)	4771

29683 7590 03/17/2009
HARRINGTON & SMITH, PC
4 RESEARCH DRIVE, Suite 202
SHELTON, CT 06484-6212

EXAMINER
GONZALEZ, MADELINE

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
03/17/2009	PAPER

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

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

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wk

Mailed : 3/17/09
In re Application of
Assion
Serial No. 11/200,581
Filed: August 9, 2005
For: LIQUID FILTER ASSEMBLY

DECISION ON PETITION

This is a decision on the PETITION FILED February 12, 2009 UNDER 37 CFR 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made on July 16, 2008.

On July 16, 2008, the Examiner issued a 14-way restriction. The restriction was in response to applicant's amendment dated February 28, 2008. The Examiner initially determined that the application contained claims (as amended) to 14 patentably distinct species (A-N). Applicant elected Species J on August 15, 2008 with traverse. The Examiner made the restriction final in the office action mailed December 12, 2008.

Petitioner asserts that under MPEP 808.01(a) there is relationship among the species; a first filter element and a second filter element comprising polymer material. Petitioner asserts that the Examiner examined claims 1-27 in the first office action and that those claims covered multiple species in the drawings and since the examiner has already examined multiple species there does not appear to be a serious burden to merely continue examining these species.

Where there is no disclosure of a relationship between species (see MPEP § 806.04(b)), they are independent inventions. A requirement for restriction is permissible if there is a patentable difference between the species as claimed and there would be a serious burden on the examiner if restriction is not required. See MPEP § 803 and § 808.02.

Where there is a relationship disclosed between species, such disclosed relation must be discussed and reasons advanced leading to the conclusion that the disclosed relation does not prevent restriction, in order to establish the propriety of restriction.

The examiner's position is that the species are independent or distinct because the claims to the different species recited the mutually exclusive characteristics of such species and that in addition these species were not obvious variants of each other based on the current record.

A review of the claims as amended indicates there are more species in the amended claims than that were considered in the first Office Action. Amended claim 1 included the limitation "where in the second filter element forms a generally rigid wavy disk shape". The increase number of patentably distinct species would further add burden of searching and examining. The position of the examiner is reasonable.

Election of species should not be required between claimed species that are considered clearly unpatentable (obvious) over each other. If applicant states that the claimed species are obvious variants, the restriction requirement will be withdrawn.

DECISION

Accordingly, the petition to withdraw the restriction requirement is **DISMISSED**.

Gregory L Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Mark F. Harrington
HARRINGTON & SMITH, PC
4 RESEARCH DRIVE, Suite 202
SHELTON CT 06484-6212

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LEGAL PATENT RECORDS CENTER
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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of:	:	
Miller et al.	:	
Application No. 11/200,598	:	
Filed: August 10, 2005	:	DECISION
Title of Invention:	:	GRANTING STATUS
ANIONIC/CATIONIC	:	UNDER 37 CFR 1.47
MASONRY SEALING SYSTEMS	:	

This decision is in response to the Petition Under 37 CFR 1.47(a), filed October 31, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). he delay in treating this petition is regretted.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor's legal representative, Andrea Miller-Simmons, refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

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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MS. ANDREA MILLER-SIMMONS
1897 VYSE AVENUE
BRONX, NY 10460

COPY MAILED
JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of: :
Miller et al. :
Application No. 11/200,598 :
Filed: August 10, 2005 : LETTER
Title of Invention: :
ANIONIC/CATIONIC :
MASONRY SEALING SYSTEMS :

Dear Ms. Simmons:

You are named as the legal representative of 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 the legal representative of a joint inventor.

As the legal representative of 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) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney Advisor
Office of Petitions

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

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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	: Chandra Tier Miller	: DECISION ON REQUEST FOR
Patent Number	: 7592489	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,598	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **852** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FLETCHER YODER (CAMERON INTERNATIONAL CORPORATION)
P.O. BOX 1212
HOUSTON, TX 77251

Mail Date: 04/21/2010

Applicant	: Thomas E. Gerber	: DECISION ON REQUEST FOR
Patent Number	: 7568503	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,613	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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Basell USA Inc.
Delaware Corporate Center II
2 Righter Parkway, Suite #300
Wilmington DE 19803

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JAN 29 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Collina, et al. :
Application No. 11/200,618 :
Filed: August 5, 2005 :
Attorney Docket No. TC 5467 DIV (US) :

This is a decision on the petition, filed October 30, 2007 (certificate of mailing date October 29, 2007), requesting withdrawal of the holding of abandonment. The petition will be treated under 37 CFR 1.181.

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

The application was filed on August 5, 2005. On August 30, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice informing applicants that an executed declaration appeared to have been omitted. The Notice required petitioners to submit an executed declaration, a surcharge for its late filing, and a substitute specification.

In response to the Notice, on October 3, 2005 (certificate of mailing date September 30, 2005), applicants timely filed a copy of a PCT Request Form that was filed with the original application papers, authorization to charge the $130.00 surcharge, and a substitute specification. On October 1, 2007, the Office mailed a Notice of Abandonment because applicants allegedly failed to file an oath/declaration of all the inventors required under 37 CFR 1.63.

Petitioners filed the present petition on October 30, 2007 (certificate of mailing date October 29, 2007). Petitioners request that the Office withdraw the holding of abandonment on the basis that an executed declaration was received in the Patent and Trademark Office (PTO) on August 5, 2005 and resubmitted on certificate of mailing date September 30, 2005 .

It is noted that the PCT Request form is signed by all three inventors on page 9, Box No. X and contains all required information for the inventors and all the necessary averments (i.e. "I have read and understand....", etc.). Furthermore, it is noted that the above-identified application is a divisional of Application No. 10/362,695, which is a national phase filing under 35 U.S.C. 371 of International Patent Application No. PCT/EP02/07467. Applicants filed a copy of the declaration used in the parent case when the above-identified application was filed. It is permissible to file a declaration from a parent case in a divisional or continuation application. 37 CFR 1.63(d)

Accordingly, the request to withdraw the holding of abandonment is granted and the Notice of Abandonment of October 1, 2007 is vacated. No petition fee has been or will be charged in connection with this matter. The $130.00 late declaration surcharge was never charged.

After the mailing of this decision, the application will be returned to Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley

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

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LAW OFFICE OF L. JACK GIBNEY
8777 SAN JOSE BLVD.
SUITE 502
JACKSONVILLE FL 32217

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DEC 1 1 2007

OFFICE OF PETITIONS

In re Application of :
Miguel Quintero :
Application No. 11/200,622 :
Filed: August 11, 2005 :
Attorney Docket No.04-268-PT-ISC :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance mailed July 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the corrected drawing; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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APR 0 6 2007

OFFICE OF PETITIONS

In re Application of

ZHANG, Tao
Application No. 11/200,638
Filed: August 10, 2005
Attorney Docket No. **13BP-126873**

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 29, 2006.

The request is **APPROVED**.

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

The request was signed by James J. Mullen III, on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed February 16, 2007 that requires a reply from the applicant.

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

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **TAO ZHANG**
11790 WESTVIEW PKWY
APT. 108 SAN DIEGO, CA 92126

cc: **DANIEL N. YANNUZZI, EZQ.**
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
12544 HIGH BLUFF DRIVE
SAN DIEGO, CA 92130

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OFFICE OF PETITIONS

THORPE NORTH & WESTERN, LLP
P.O. BOX 1219
SANDY, UT 84091-1219

In re Application of	:
Chien-Min Sung et al	:
Application No. 11/200,647	: DECISION ON PETITION
Filed: August 9, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 00802-24358	:

This is a decision on the petition filed October 5, 2009 and supplemented on October 28, 2009 under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed October 28, 2009.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1793 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/200,647	08/09/2005	1793	2030	00802-24358	36	3

CONFIRMATION NO. 2688

CORRECTED FILING RECEIPT

20551
THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

OC000000041065814

Date Mailed: 04/12/2010

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

Applicant(s)

Chien-Min Sung, Taipei County, TAIWAN;
Tien-Yuan Yen, Taipei County, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 20551

Domestic Priority data as claimed by applicant

This application is a CIP of 10/270,018 10/11/2002 PAT 7,173,334

Foreign Applications

If Required, Foreign Filing License Granted: 09/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/200,647**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

oriented diamond substrates

Preliminary Class

423

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

In re Application of	:	
Ned S. Rasor, et al.	:	
Application No. 11/200,649	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO WITHDRAW
Attorney Docket No. 020017-000130US	:	FROM RECORD
	:	

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 20, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on November 11, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: VIOLA T. KUNG, PH.D., ESQ.
HOWREY, LLP
1950 UNIVERSITY AVENUE
4TH FLOOR
EAST PALO ALTO, CA 94303

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/200,649	08/09/2005	Ned S. Rasor	20419.0005.CNUS01

CONFIRMATION NO. 2685

POWER OF ATTORNEY NOTICE

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

OC000000039209309

Date Mailed: 12/11/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

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

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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
11/200,654	08/10/2005	2882	765	0002.0018US1	2	28	2

CONFIRMATION NO. 2658

UPDATED FILING RECEIPT

OC000000017087816

029127
HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

Date Mailed: 09/23/2005

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)

Wenbing Yun, Walnut Creek, CA;
Michael Feser, Walnut Creek, CA;
Alan Lyon, Berkeley, CA;

Assignment For Published Patent Application

Xradia, Inc., Concord, CA

Power of Attorney: The patent practitioners associated with Customer Number **29127**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/600,159 08/10/2004

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/200,654

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

** SMALL ENTITY **

Title

Fast x-ray lenses and fabrication method therefor

Preliminary Class

378

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/200,674	08/09/2005	3737	965	85167-4200	7	32	4

CONFIRMATION NO. 3616

CORRECTED FILING RECEIPT

OC000000017487423

28765
WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON, DC 20006

Date Mailed: 11/18/2005

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)

Barry Keenan, Sherman Oaks, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

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 US11/200,674

Projected Publication Date: 02/15/2007

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and system for limiting interference in electroencephalographic signals

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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JAN 04 2010

In re Application of	:	
KEENAN, Barry	:	
Application No. 11/200,674	:	DECISION ON PETITION
Filed: August 09, 2005	:	TO WITHDRAW
Attorney Docket No. **85167-4200**	:	FROM RECORD
	:	

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 11, 2009

The request is **NOT APPROVED**.

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

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

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

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **HOWARD BAKER - VIVOMETRICS, INC.**
C/O RALPH C. FRANCIS
FRANCIS LAW GROUP
1942 EMBARCADERO STREET
OAKLAND, CA 94606

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Stewart M. Kroll	: DECISION ON REQUEST FOR
Patent Number	: 7668662	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1043** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

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JAN 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Rodney G. Garrett	:	
Application No. 11/200,698	:	ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. P06878US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 2006, to revive the above-identified application. The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

The application became abandoned for failure to file a complete reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 31, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 1, 2005. A Notice of Abandonment was mailed September 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a declaration in compliance with 37 CFR 1.63, including the $65 surcharge set forth in 37 CFR 1.16(f); and the replacement drawings, (2) the petition fee of $750, and (3) an adequate statement of unintentional delay.

This application file is being referred to the Office of Patent Application Processing (OPAP) for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (271) 272-4000.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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STEVEN MARINO
875 STEVENS ROAD
YORK HAVEN, PA 17370

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SEP 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven Marino	:	
Application No. 11/200,719	:	ON PETITION
Filed: August 11, 2005	:	
Attorney Docket No. 12043.00	:	

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

The petition is **GRANTED.**

The application became abandoned for failure to submit formal drawings on or before January 2, 2007 in reply to the Notice of Allowability, mailed October 2, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on January 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of drawings; (2) the petition fee of $750; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the Notice of October 2, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division for further processing in accordance with this decision accepting the late submission of drawings.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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DALLAS, OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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OCT 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Tannenbaum	:	
Application No. 11/200,730	:	DECISION ON PETITION
Filed: August 10, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 05708/P015US08008819	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 18, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes copy of applicant's drivers license. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2625 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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

AT&T Legal Department
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

MAIL

NOV 05 2008
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of
DIPRIMA, KENNETH JAMES et al.
Application Serial No. 11/200,743
Filed: August 10, 2005
For: **INTELLIGENT CUSTOMER CARE SUPPORT USING NETWORK CAMEL SUBSCRIPTION INFORMATION**

DECISION ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed May 21, 2007 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that information submitted in Information Disclosure Statements on the same dates as the petition dated above be expunged from the record. Petitioner states 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. By reason of Notice of Allowability mailed 10/10/08, the examiner has determined the materials submitted under MPEP § 724.02 not to be important to a reasonable examiner. The petition fee set forth in 37 CFR 1.17(h) has been paid.

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

The expunged material has been closed from the electronic file.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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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ROBERT L. SHAVER
DYKAS, SHAVER & NIPPER, LLP
PO BOX 877
BOISE ID 83701-0877

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Andrew E. Briesmeister	:	
Application No. 11/200797	:	ON PETITION
Filing Date: 08/09/2005	:	
Attorney Docket Number:	:	
BRIA102	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 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 June 23, 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).

Applicant filed a RCE and Amendment in response to the final Office action on December 23, 2009; however, the Amendment was non-compliant. Applicant was so notified in a Notice of Non-Compliant Amendment mailed February 3, 2010. Accordingly, the date of abandonment of this application is December 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a compliant 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) 272-3232.

This application is being referred to Technology Center AU 3657 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Shunichiro Tanigawa	: DECISION ON REQUEST FOR
Patent Number	: 7608044	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/200,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK NY 10038

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SEP 15 2008

In re Application of	:	
Yung-Huei Lan	:	
Application No.: 11/200825	:	ON PETITION
Filing or 371(c) Date: 08/09/2005	:	
Attorney Dckt Number: 15502 B	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 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 July 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 18, 2008. Accordingly, the date of abandonment of this application is July 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 payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

/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
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Paper No.

PATWRITE LLC
408 W. MAIN ST.
MARSHALLTOWN IA 50158-5759

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JUL 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Saavedra et al.	:	
Application No. 11/200,859	:	DECISION ON
Filed: August 10, 2005	:	PETITION
Atty Docket No. 0601039-004	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION 37 CFR § 1.181 filed February 28, 2007.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed October 11, 2006. A courtesy Notice of Abandonment was mailed on February 7, 2007.

On petition, the practitioner of record states that he never received the Notice of Allowance and Fee(s) Due. He further states that a Power of Attorney and Change of Address was filed on June 12, 2006. Nonetheless, the Notice was sent to the old law firm and was not received at the new correspondence address.

A review of the record confirms that a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address signed by both inventors was filed on June 12, 2006. However, the subsequently mailed Notice of Allowance was mailed to the uncorrected address. The Revocation and Change of Address was not made of record until after the mailing of the Notice of Allowance. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the notice of abandonment mailed February 7, 2007 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 3644 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Allowance and Fee(s) Due (and the Notice of Allowability) mailed October 11, 2006 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA GA 30309

MAILED
31 MAY 2006

In re Application of
James O. Farmer, et al.
Application No. 11/200,873
Filed: August 10, 2005
For: **COUNTERMEASURES FOR IDLE PATTERN SRS INTERFERENCE IN ETHERNET OPTICAL NETWORK SYSTEMS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 2, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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APR 18 2007

OFFICE OF PETITIONS

LIN YU
GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

In re Application of	:	
ZIMMERMAN, Patrick	:	
Application No. 11/200, 889	:	DECISION ON PETITION
Filed: August 09, 2005	:	TO WITHDRAW
Attorney Docket No. **SDSM-1036056**	:	FROM RECORD
	:	

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 07, 2007.

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

A review of the file record indicates that the power of attorney to Gordon & Rees LLP has been revoked by the assignee of the patent application on March 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **HOGAN & HARTSON LLP**
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

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
11/200,889	08/09/2005	Patrick Robert Zimmerman	SDSM-1036056

CONFIRMATION NO. 4231

OC000000023369175

25235
HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

Date Mailed: 04/13/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2007.

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

Michelle R. Eason

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

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/200,889	08/09/2005	Patrick Robert Zimmerman	SDSM-1036056

CONFIRMATION NO. 4231

OC000000023369169

Lin Yu
Gordon & Rees LLP
Suite 1600
101 West Broadway
San Diego, CA 92101

Date Mailed: 04/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Michelle R. Eason

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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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
Patrick Robert Zimmerman :
Application No. 11/200,889 : ON PETITION
Filed: August 9, 2005 :
Attorney Docket No. 29038.01 CIP US

This is a decision on the petition, filed March 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 June 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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EATON CORPORATION
EATON CENTER
1111 SUPERIOR AVENUE
CLEVELAND, OH 44114

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AUG 18 2008

In re Application of	:	
Martin M. Mann, et al.	:	
Application No. 11/200,896	:	DECISION ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. 209593-99371	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 23, 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 24, 2007.

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 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 $1540, and (3) a proper statement of unintentional delay. The petition is **GRANTED**.

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 $1050 extension of time fee submitted with the petition on February 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received February 13, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/200,896	08/10/2005	Martin M. Mann	05-AQP-112 (JAC)

CONFIRMATION NO. 4164

POA ACCEPTANCE LETTER

200
EATON CORPORATION
EATON CENTER
1111 SUPERIOR AVENUE
CLEVELAND, OH 44114

OC000000031557223

Date Mailed: 08/13/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2008.

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.

/amwise/

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

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APR 13 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Gregory Allen Magin	:	
Patent Number: 7,592,880	:	DECISION ON
Issue Date: 11/03/2009	:	APPLICATION FOR
Application No. 11/200910	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/10/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
04838-093001	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ninety-two (992) 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 ninety-two (992) 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 **nine hundred ninety-two (992) 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 : 7,592,880 B2

DATED : **September 22, 2009**

INVENTOR(S) : Magin

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 658 days.

Delete the phrase "by 658 days" and insert – by 992 days--

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September 2006

PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

OCT - 5 2006

In re Application of:	:	
DUMITRU BOJIC	:	DECISION ON PETITION TO
Serial No.: 11/200,920	:	MAKE SPECIAL UNDER 37
Filed: 09 August 2005	:	C.F.R. § 1.102(d)
Title: Monopole Field Electric Motor Generator	:	

This is a decision on the petition filed on August 10, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that the claims are directed to a single invention and an offer to elect without traverse should a restriction or election of species requirement is made; c) a statement that a pre-examination search was made, including the search areas; d) copies of the references stated as being most closely related to the claimed subject matter; and e) a discussion of the teaching 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) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (b), (c) and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the cited references, and states that they do not teach the specific limitations claimed in the independent claims. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. For instance, petitioner has not discussed exactly how the Tu et al, Neal, Rose, Mohler (I and II), Kloosterhouse et al, Westley and Fawzy (I and II) references lack a disclosure or fair teaching of the limitations of each independent claim. A mere statement alleging that the claims contain a feature not found in the relevant prior art is insufficient. Petitioner is required to provide such detailed discussion for each reference with respect to each independent claim.

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 resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant, and a statement complying with MPEP § 708.02(VIII)(b).

Any inquiry regarding this decision should be directed to Jose' G. Dees, Special Program Examiner, at (571) 272-1569.

Jose G. Dees, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD M. SACCOCIO, P.A.
780 WEST TROPICAL WAY
PLANTATION FL 33317

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Richard Francis Hurst	:	
Application No. 11/200,922	:	DECISION ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. 8.5.08U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, 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 January 8, 2009, as required by the Notice of Allowance and Fee(s) Due mailed October 8, 2008. Accordingly, the date of abandonment of this application is January 9, 2009. A Notice of Abandonment was mailed March 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Petitioner has failed to submit the required $300.00 publication fee therefore this fee will be charged to petitioner's deposit account as authorized March 22, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

In re Application of	:	
Walker, et al.	:	
Filed: August 10, 2005	:	ON PETITION
Application No. 11/200,923	:	
Atty. Dkt. No.: 94-001-C6	:	

This decision is in response to the "PETITION PURSUANT TO 37 C.F.R. § 1.53(e)(2)," filed September 26, 2005 to accord the above-identified application a filing date of August 10, 2005 and entry of 33 sheets of drawings.

The application was filed August 10, 2005. The Notice of Incomplete Nonprovisional Application (Notice) mailed September 1, 2005 indicated that the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required per 35 USC 113 (first sentence).

In response, the present petition was filed wherein petitioners argue that the application as deposited included 33 sheets of drawings. Petitioners have included as proof of mailing and proof of receipt of the 33 drawing sheets in question a return postcard date stamped by the Office on August 10, 2005. A copy of the 33 drawing sheets purportedly filed with the application on August 10, 2005 was also supplied.

The original 33 drawings sheets in question 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 August 10, 2005 is GRANTED.

Since the original 33 drawing sheets cannot be located in the Office, the copy of said pages supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted $400.00 petition fee has been requested from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of August 10, 2005.

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 Patent
United States Patent and Trademark Offic
P.O. Box 145
Alexandria, VA 22313-145
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MAIL

APR 20 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ZAGORIN O'BRIEN GRAHAM LLP (037)
7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350
AUSTIN TX 78731-1191

In re Application of
DIPRIMA, KENNETH JAMES, et. al.
Application No. 11/200,936
Filed: August 10, 2005
For: **INTELLIGENT CUSTOMER CARE SUPPORT**

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed March 20, 2007, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex Parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the proprietary material submitted March 20, 2007, be expunged from the record. Petitioner states 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.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/200,936	08/10/2005	Kenneth James DiPrima	C04-0083-000/037-0018	4309

52218 7590 01/08/2010
AT&T Legal Department - ZO
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

EXAMINER
LY, NGHI H

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
01/08/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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AT&T Legal Department - ZO
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

MAIL

JAN 08 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of :
DIPRIMA, KENNETH JAMES et al. :
Application Serial No. 11/200,936 :
Filed: August 10, 2005 :
INTELLIGENT CUSTOMER CARE SUPPORT :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed March 20, 2007 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that information submitted on March 20, 2007 be expunged from the record. Petitioner states 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. By reason of Notice of Allowability mailed 12/16/09, the examiner has determined the materials submitted under MPEP § 724.02 not to be material to the examination of the instant application to a reasonable examiner. The petition fee set forth in 37 CFR 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material is returned herewith.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: docket records including two references received March 20, 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET
P.O. BOX 224
MONROE, CT 06468

MAILED

AUG 19 2009

OFFICE OF PETITIONS

In re Application of :
Tswen-Hsin Liu :
Application No. 11/200,956 :
Filed: August 10, 2005 :
Attorney Docket No. 890-008.015

ON PETITION

This is a decision on the petition, filed August 17, 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 August 14, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2891 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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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Josef Burg	: DECISION ON REQUEST FOR
Patent Number	: 7659373	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,006	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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JUL 16 2010

OFFICE OF PETITIONS

In re Patent No.7,659,373	:	
Josef Burg et al.	:	DECISION FOR REQUEST
Issue Date : February 9, 2010	:	FOR RECONSIDERATION
Application No. 11/201,006	:	OF PATENT TERM
Filed: August 9, 2005	:	ADJUSTMENT
Attorney Docket No. HUBR-1159.1 DIV	:	

This is a decision on the "Petition for Reconsideration of Patent Term Adjustment," filed April 26, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from one hundred and ninety-one days (191) days to an increased amount that takes into account the fact that the application was pending for more than 3 years.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given TWO (2) MONTHS from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On February 9, 2010, the above-identified application matured into U.S. Patent No. 7,659,373, with a revised patent term of 191 days. The request for reconsideration filed on February 11, 2010, was timely filed within two months of the date the patent issued, and resulted in a recalculated patent term of 191 days. The instant request for reconsideration filed April 21, 2010, was timely filed within one month of the date the petition recalculation decision was mailed. Patentees assert that an additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

It is noted that the instant patent issued 3 years and 549 (not 531) days after its filing date. However, § 1.703(b)(1) provides, in pertinent part, that:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) . . . and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (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.

Thus, the filing of a request for continued Examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. In this instance, an RCE was filed on October 30, 2007. Thus, the ability to accumulate any additional patent term adjustment against the three-year pendency provision ended October 29, 2007. Applicant is not entitled to any additional patent term adjustment because the RCE was filed before the expiration of the three-year pendency of the application.

In view thereof, the patent term adjustment of 191 days indicated in the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
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 specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AUG 29 2007

OFFICE OF PETITIONS

JOHN H. HARRINGTON
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

In re Application of	:	
STEPH, James C. et al.	:	
Application No. 11/201,009	:	DECISION ON PETITION
Filed: August 10, 2005	:	TO WITHDRAW
Attorney Docket No. **STEM-250**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **BRIAN KINNEAR**
HOLLAND & HART, LLP
555 17TH STREET, SUITE 2700
DENVER, CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Ulf Hollberg	: DECISION ON REQUEST FOR
Patent Number	: 7591007	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: 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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SUITE 480
SAN JOSE CA 95113

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Jeffrey Arippol :
Application Number: 11/201022 :
Filing Date: 08/09/2005 :
Attorney Docket Number: :
NOVP.P0004 :

ON PETITION

This is a decision on the paper filed on April 6, 2009, which is treated as a petition under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

This application became abandoned on December 13, 2008, for failure to timely submit a reply to the non-final Office action mailed on September 12, 2008, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the amendment filed on April 6, 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 Technology Center Art Unit 1794 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 2 1 2007

OFFICE OF PETITIONS

In re Application of	:	
CHOBOTOV, Michael V.	:	
Application No. 11/201,028	:	DECISION ON PETITION
Filed: August 10, 2006	:	TO WITHDRAW
Attorney Docket No. **BSI-534US2**	:	FROM RECORD
	:	

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 01, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on March 06, 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 Michelle R. Eason at 571-272-4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **RATNER PRESTIA**
P.O. BOX 980
VALLEY FORGE PA 19482

UNITED STATES PATENT AND TRADEMARK OFFICE

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101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of	:	
Bohrer et al.	:	
Application No. 11/201,037	:	DECISION ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. H0015553C21161.1110103	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 2007, 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 payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey L. Cripps	:	
Application No. 11/201,074	:	DECISION GRANTING PETITION
Filed: August 10, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6293-000001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 9, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 21, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3673 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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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of	:	
Sergey Belikov, Sergio A.	:	DECISION ON PETITION
Paulo, and Osamu Yamada	:	PURSUANT TO
Application No. 11/201,076	:	37 C.F.R. § 1.183
Filed: August 10, 2005	:	
Attorney Docket No. 5744-000022	:	
Title: DISPLAY DEVICE WITH	:	
DIMMABLE SEGMENTS	:	

This is in response to the petition filed on April 10, 2008, pursuant to 37 C.F.R. § 1.47. On May 11, 2008, Petitioner submitted a supplement to this petition, and set forth that it was filed pursuant to Rule 1.183. Both of these submissions will be treated together as a petition pursuant to 37 C.F.R. § 1.183. Petitioner has requested the waiver of 37 C.F.R. § 1.131's requirement that all of the inventors sign the declaration of prior inventorship[1].

The $400 required for consideration of this petition pursuant to 37 C.F.R. § 1.183 has been charged to Deposit Account No. 08-0750, as authorized.

The petition pursuant to 37 C.F.R. § 1.183 is **GRANTED**.

The above-identified application was filed on August 10, 2005, with a 37 C.F.R. § 1.63 declaration signed by each of the three joint inventors. On November 30, 2007, applicants filed a Rule 1.131 declaration executed by both each of the three joint inventors. For reasons stated therein, by Office action mailed January 11, 2008, the Examiner considered the Rule 1.131

1 Petitions pursuant to 37 C.F.R. § 1.47 are only applicable to an original oath or declaration.

declaration that was filed on November 30, 2007, but determined that it was ineffective to overcome the reference. In response, on April 10, 2008, applicants filed a Revised Rule 1.131 declaration executed by Messrs. Belikov and Yamada, but not by joint inventor Paulo. Applicants have filed the present petition to have the revised Rule 1.131 declaration accepted without the signature of inventor Paulo. Applicants state that despite diligent efforts, inventor Paulo cannot be found or reached.

37 C.F.R. § 1.131(a) sets forth, *in pertinent part*:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, MPEP § 715.04(I)(B) sets forth, *in toto*:

> An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

Here, there has not been a party qualified under 37 C.F.R. §§ 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the revised Rule 1.131 declaration include all of the joint inventors.

In order for a petition under 37 C.F.R. 1.183 to be granted to waive this requirement that joint inventor Paulo sign the revised Rule 1.131 declaration, Petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.
It is noted that Petitioner has not expressly alleged the existence of an extraordinary situation where justice requires waiver of the rules. However, Petitioner's "request for relief under 1.183"[2] will be construed to constitute an assertion of the existence of an extraordinary situation where justice requires

2 Submission of May 11, 2008, page 1.

waiver of the rules. **Petitioner must notify the Office if this is not a correct interpretation of this language.**

Applicants have set forth the steps taken to obtain joint inventor Paulo's signature on the revised Rule 1.131 declaration. By declaration of facts of Attorney Dobrowitsky, an attorney of record, applicants have shown that a bona fide effort was made to reach or locate inventor Paulo to present the revised Rule 1.131 declaration and supporting documentation. There is no indication that the last known address is incorrect. Moreover, inventor Paulo indicated to Attorney Dobrowitsky that he refused to execute the document. Further, inventor Paulo previously signed the Rule 1.131 declaration found ineffective by the Examiner. Under the circumstances, it is concluded that Petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that the revised Rule 1.131 declaration of April 10, 2008 may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. **This is not a decision on the merits of the declaration.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the revised Rule 1.131 declaration of April 10, 2008 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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SUITE 1401 – 1166 ALBERNI STREET
VANCOUVER BC V6E 3Z3 CA CANADA

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of	:	
J. Victor Van Slyke et al	:	
Application No. 11/201,094	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 91P5US	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed November 18, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The instant petition in not signed by a person authorized to sign under 37 CFR 1.102; therefore, the petition is dismissed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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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 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 3739 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

cc:

Samuel S. Lee
Dergosits & Noah LLP
Four Embarcadero Center, Suite 1450
San Francisco, CA 94111

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
J. Victor Van Slyke et al	:	
Application No. 11/201,094	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 91P5US	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(i), filed December 27, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The present invention relates to a waste collection system for separating liquid waste from solid waste. While petitioner's invention may relate to a waste collection system, there is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basis-life sustaining natural elements." The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

The petitioner, Samuel S. Lee, attest that he is a person authorized to sign petitions under 37 CFR 1.102. The Power of Attorney received December 27, 2005 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership

must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

The petition received December 27, 2005 did not provide the practitioner's registration number. When a patent practitioner acting in a representative capacity signs a paper in practice before the United States Patent and Trademark Office, the practitioner must set forth his or her name, signature, and registration number. See 37 CFR 1.34.

Further correspondence with respect to this matter should be addressed as follows:

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By hand: U. S. Patent and Trademark Office
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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 1723 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Dergosits & Noah LLP
Four Embarcadero Center, Suite 1450
San Francisco, CA 94111

Attachment: A blank 37 CFR 3.73(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY MI 48098

COPY MAILED

OCT 29 2008

OFFICE OF PETITIONS

In re Application of	:	
William Lo	:	
Application No. 11/201,111	:	DECISION DISMISSING PETITIONS
Filed: 08/10/2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. MP0664	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 10, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is DISMISSED

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference prior-filed provisional application No. 60/438,933. 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 after the filing date of the application, the amendment would not be proper. When a benefit claim 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 unless an incorporation by reference statement of the prior application was presented upon filing of the application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980); MPEP §§§ 201.06(c)(IV), 201.00(III)(f), and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment complying with 37 CFR 1.121, 37 CFR 1.76 and 37 CFR 1.33(b))[1] 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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application **must be signed by an appropriate party**. Therefore, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application **must be signed in accordance with 37 CFR 1.33(b).**

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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5445 CORPORATE DRIVE
SUITE 200
TROY MI 48098

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NOV 2 6 2008

In re Application of	:	
William Lo	:	
Application No. 11/201,111	:	DECISION ON PETITIONS
Filed: 08/10/2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. MP0664	:	

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The 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.

As 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 37 CFR §§ 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR §§ 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211. 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 2416 for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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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
11/201,111	08/10/2005	2416	1804	MP0664	34	2

CONFIRMATION NO. 4487

CORRECTED FILING RECEIPT

26703
HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY, MI 48098

OC000000033237181

Date Mailed: 11/21/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

William Lo, Cupertino, CA;

Assignment For Published Patent Application

Marvell International Ltd., Hamilton, BERMUDA

Power of Attorney: The patent practitioners associated with Customer Number 26703

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/667,731 04/01/2005
and is a CIP of 10/435,301 05/09/2003 PAT 7,324,507
which is a CIP of 09/991,046 11/21/2001 PAT 7,054,309
and claims benefit of 60/438,933 01/09/2003

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 **US 11/201,111**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Generalized auto media selector

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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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 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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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APR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Hyslop, et al.	:	
Application No. 11/201,116	:	DECISION GRANTING
Filed: November 18, 2005	:	PETITION
Attorney Docket No.: 100773.56002US	:	
FOR: SYSTEMS AND METHODS FOR FREQUENCY REUSE IN WIRELESS NETWORKS		

This is a decision on the petition, filed March 10, 2006, entitled, "NON-FEE PETITION TO CORRECT FILING DATE," requesting that the filing date of the above-identified application be corrected to August 11, 2005. The presently accorded filing date is November 18, 2005. The petition will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application papers were deposited on August 11, 2005.

A Notice to File Missing Parts of Nonprovisional Application, mailed August 30, 2005, stated that the application had been accorded a filing date of August 11, 2005, but that replacement drawings, an executed declaration, and a surcharge for its late filing were due within a two month extendable period from the mail date of the Notice.

Petitioners partially and timely responded to the Notice on November 18, 2005. The submission of missing parts should not have changed the filing date of the application.

Unfortunately, due to Office error, the application was reprocessed with an incorrect filing date of November 18, 2005.

The application is entitled to an August 11, 2005 filing date. The petition is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 11, 2005** and the mailing of a corrected filing receipt.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/201,116	08/11/2005	2618	1130	100773.56002US	3	18	3

CONFIRMATION NO. 4889

CORRECTED FILING RECEIPT

OC000000018574328

23911
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Date Mailed: 04/19/2006

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)

Douglas A. Hyslop, Vienna, VA;
Matthew Starzec, Fairfax, VA;
Udit Thakore, Fairfax, VA;

Assignment For Published Patent Application

NEXTEL COMMUNICATIONS, INC., Reston, VA

Power of Attorney: The patent practitioners associated with Customer Number **23911**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/661,025 03/14/2005

Foreign Applications

If Required, Foreign Filing License Granted: 08/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/201,116

Projected Publication Date: 09/14/2006

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for frequency reuse in wireless networks

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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LICENSE FOR FOREIGN FILING UNDER
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Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/201,139	08/11/2005	Tomoya Onishi	03500.104301.	4443

5514 7590 09/25/2008
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER
RAABE, CHRISTOPHER M

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
09/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Commissioner for Patents
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of
Tomoya ONISHI
Application No.: 11/201,139
Filed: 11 August 2005
Attorney Docket No.: 03500.104301.
For: LIGHT-EMITTING SUBSTRATE, IMAGE DISPLAY APPARATUS, AND INFORMATION DISPLAY AND REPRODUCTION APPARATUS USING IMAGE DISPLAY APPARATUS

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 18 August 2008, to make the above-identified application special.

The request and petition are **DENIED**.

Discussion

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, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:

a. Ensure 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) and
b. Submit a claims correspondence table in English;

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
      ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

      Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;
6. Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH program and petition fails to satisfy at least condition 4 above. This application has received an office action by the examiner on 3 September 2008. This application will remain in its regular status and prosecution shall continue in its regular course.

Telephone inquiries concerning this decision should be directed to Brian Sircus at 571 272 2058.

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.

This application is being forwarded to the examiner for action on the merits commensurate with this decision.

Brian Sircus
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/20/2010

Applicant	: Hirotaka Kawata	: DECISION ON REQUEST FOR
Patent Number	: 7633469	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Motojima et al.	:	
Application No. 11/201,188	:	
Filing or 371(c) Date: 08/11/2005	:	
Attorney Docket Number:	:	
Q89208	:	ON PETITION

This is a decision on the Petition Under 37 CFR § 1.181(a) to Withdraw Holding of Abandonment and, Alternatively, Petition Under 37 CFR 1.137(b) to Revive Abandoned Application Reinstate Appeal, filed October 2, 2006.

This Petition Under 37 CFR § 1.181(a) is hereby **granted**.

This Petition Under 37 CFR 1.137(b) is hereby **dismissed as moot.**

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 21, 2005. The Notice required an oath or declaration. The Notice action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on January 22, 2005. A Notice of Abandonment was mailed August 1, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that the Notice was issued in error. Applicant alleges that an oath/declaration was filed with the original application papers on August 11, 2005. In support of this assertion applicant files a copy of his return-receipt postcard which acknowledges receipt by this Office of a "Decl" on August 11, 2005. Applicant has also filed a copy of the oath/declaration, which is a copy of the oath/declaration from prior application 10/419,768, of which the above-identified application is a divisional application.

The oath/declaration complies with 37 CFR 1.63(d)(1).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

Office records reveal that the fee for a petition to accept an unintentionally delayed claim for priority was charged to Applicant's deposit account. The fee has been refunded to deposit account 19-4880 as authorized in the petition[1].

The application will be referred to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant is advised that the fee for a petition to accept an unintentionally delayed claim for priority is $1,370.00. The fee for a petition to revive under 37 CFR 1.137(b) has increased to $1,500.00/$750.00 effective December 8, 2004.

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

Mail Date: 04/20/2010

Applicant	: Joseph D. Hendrickson	: DECISION ON REQUEST FOR
Patent Number	: 7600299	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **72** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

Mail Date: 05/17/2010

Applicant : Joseph D. Hendrickson
Patent Number : 7600299
Issue Date : 10/13/2009
Application No : 11/201,224
Filed : 08/10/2005

: 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 **147** 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, LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209-3873

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JUL 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
HIRAOKA, et al.	:	
Application No. 11/201,226	:	DECISION GRANTING PETITION
Filed: August 11 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **503.45332X00**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 8, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Paul J. Skwierawski appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2852 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : June 24, 2010

Patent No. :7689129
Inventor(s) :Seiji Karashima et al.
Issued :August 10, 2005
Title :SYSTEM-IN-PACKAGE OPTICAL TRANSCEIVER IN OPTICAL COMMUNICATION
:WITH A PLURALITY OF OTHER SYSTEM-IN-PACKAGE OPTICAL
:TRANSCEIVERS VIA AN OPTICAL TRANSMISSION LINE

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.

Applicants' proposed request to change data on the Title Page; Item [54] Title is not warranted correction. The changes as presented in the Letters Patent is the result of a style change where certain words such as "A, Improvement etc.. are not included as the first word of the title.

In view of the forgoing applicants' request in this matter is hereby denied.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-7541

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756--1580 or (703) 756-1541

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

/arg

11/201,234

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : June 24, 2010

Patent No. :7689129
Inventor(s) :Seiji Karashima et al.
Issued :August 10, 2005
Title :SYSTEM-IN-PACKAGE OPTICAL TRANSCEIVER IN OPTICAL COMMUNICATION
:WITH A PLURALITY OF OTHER SYSTEM-IN-PACKAGE OPTICAL
:TRANSCEIVERS VIA AN OPTICAL TRANSMISSION LINE

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.

Applicants' proposed request to change data on the Title Page; Item [54] Title is not warranted correction. The changes as presented in the Letters Patent is the result of a style change where certain words such as "A, Improvement etc.. are not included as the first word of the title.

In view of the forgoing applicants' request in this matter is hereby denied.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-7541

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756--1580 or (703) 756- 1541

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

/arg

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/09/2010

Applicant	: Chien Lung Chen	: DECISION ON REQUEST FOR
Patent Number	: 7643170	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/201,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1151** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Diethmar Morawski	: DECISION ON REQUEST FOR
Patent Number	: 7572062	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,259	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

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 PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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APR 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,365,012 :
Issue Date: April 29, 2008 :
Application No. 11/201,266 : DECISION ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. **9319A-001259** :

This is a decision on the petition, filed, March 17, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Seiko Epson Corporation and Kabushiki Kaisha Toshiba" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Seiko Epson Corporation and Kabushiki Kaisha Toshiba" are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Tredelle Jackson at (571) 272-2783. 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 after issuance of this application into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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APR 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,365,012 :
Issue Date: April 29, 2008 :
Application No. 11/201,266 : DECISION ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. **9319A-001259** :

This is a decision on the petition, filed, March 17, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Seiko Epson Corporation and Kabushiki Kaisha Toshiba" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Seiko Epson Corporation and Kabushiki Kaisha Toshiba" are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Tredelle Jackson at (571) 272-2783. 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 after issuance of this application into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PTO/SB/44 (08-07)
Approved for use through 08/31/2010. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,365,012

APPLICATION NO: 11/201,266

DATED : Apr. 29, 2008

INVENTOR(S) : Hiroyuki Matsuo; Toshiki Nakajima; Kunihiro Miyazaki

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Front Page, (73) Assignee: Line 2: add -- Kabushiki Kaisha Toshiba (JP) --.

Front Page, page 2, FOREIGN PATENT DOCUMENTS, Line 3: "2001-218085" should be -- 2003-218085 --.

Col. 1, line 24: after "respond" insert -- to --.

Col. 1, line 56: "apad" should be -- a pad --.

Col. 2, line 48: "incompletely," should be -- incomplete, --.

Col. 6, line 54: after "conducting" insert -- with --.

Col. 6, line 62: after "spaced" insert -- from --.

Col. 7, line 12: "flow" should be -- flows --.

Col. 10, line 46: "an" should be -- a --.

Col. 10, line 49: "an" should be -- a --.

MAILING ADDRESS OF SENDER: HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
Bloomfield Hills, MI 48303

PATENT NO. 7,365,012

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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OFFICE OF PETITIONS

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

In re Application of Jeong et al.	:	
Application No. 11/201,273	:	On Application For
Filing Date: August 11, 2005	:	Patent Term Adjustment
Attorney Docket No. 49388	:	

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. 1.705(b)" filed March 8, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is four hundred and five (405) days, not two hundred seventy-eight (278) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the

patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The 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.

Charles Steven Brantley
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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OCT 17 2005

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

In re Application of	:
John A. Giordano	:
Serial No.: 11/201,285	: PETITION TO MAKE SPECIAL
Filed: August 31, 2005	:
Attorney Docket No.: 48508-00088	:

This is in response to the petition filed September 19, 2005 (second copy filed October 4, 2005), to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement.

Therefor 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 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 to the Office general facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

DON J. PELTO
1300 I STREET, NW
11TH FLOOR
WASHINGTON, DC 20006

In re Application of
John A. Giordano
Application No. 11/201,285
Filed: August 11, 2005
Attorney Docket No. 14ME-129098

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on May 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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 applications cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Don J. Pelto
Sheppard, Mullin, Richter & Hampton, LLP
1300 I STREET, NW
11TH Floor
Washington, DC 20006

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OFFICE OF PETITIONS

In re Application of John A. Giordano Application No. 11/201,285 Filed: August 11, 2005 Attorney Docket No. 14ME-129098	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 5, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1616, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to 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

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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/201,285	08/11/2005	1616	2480	14ME-129098	46	1

CONFIRMATION NO. 3787

CORRECTED FILING RECEIPT

68850
DON J. PELTO
Sheppard, Mullin, Richter & Hampton LLP
1300 I STREET, NW
11TH FLOOR
WASHINGTON, DC 20006

OC000000027062439

Date Mailed: 12/10/2007

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)

John A. Giordano, West Orange, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 23767

Domestic Priority data as claimed by applicant

This application is a CIP of 10/916,534 08/12/2004
and is a CIP of 10/964,754 10/15/2004
and is a CIP of 10/901,054 07/29/2004
and is a CIP of 11/049,643 02/04/2005

Foreign Applications

If Required, Foreign Filing License Granted: 09/16/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/201,285**

Projected Publication Date: 03/13/2008

Non-Publication Request: No

Early Publication Request: No

Title

Methods for prophylactic and therapeutic nutritional supplementation

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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JONES DAY
2882 SAND HILL RD., SUITE 240
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
Malcolm R. Kahn et al	:	
Application No. 11/201,325	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 948576-999008	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed August 9, 2005, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

Applicants present reasons for making the application special, as required with respect to counterterrorism, specially bioterrorism (e.g. water contamination) activities. However, none of the claims are specifically directed to bioterrorism activities, rather the method and system claims presented could be used for detection of any type of raw fluid. Furthermore while a minor aspect of the claims may be directed to countering terrorism, the inventor does not meet the materiality standard.

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 3744 for action in its regular turn.

Denise Pothier for

Amelia Au
Petitions Examiner
Office of Petitions

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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

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OFFICE OF PETITIONS

In re Application of	:	
Malcolm R. KAHN, et al	:	
Application No. 11/201,325	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO WITHDRAW
Attorney Docket No. 948576.999008	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, pursuant to the request of the Assignee, does not meet any of the conditions set forth in 37 CFR 10.40, since assignee has not properly intervened.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed January 11, 2008 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: SENSICORE, INC.,
ATTN: MALCOLM KAHN
755 PHOENIX DRIVE
ANN ARBOR, MI 48108

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Chris Sungkwon Hong	: DECISION ON REQUEST FOR
Patent Number	: 7636115	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,332	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1168** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
CARAVATTI, Giorgio et al.	:	
Application No. 11/201,348	:	DECISION ON PETITION
Filed: August 10, 2005	:	TO WITHDRAW
Attorney Docket No. **093286-0110**	:	FROM RECORD
	:	

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 15, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on November 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FANELLI STRAIN & HAAG PLLC**
1455 PENNSYLVANIA AVE., N.W.
SUITE 400
WASHINGTON DC 20004

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Hirobumi Nishida	: DECISION ON REQUEST FOR
Patent Number	: 7616813	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1091** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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www.uspto.gov

GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Brian E. Barth	:	
Application No. 11/201,376	:	DECISION ON PETITION
Filed: August 10, 2005	:	TO WITHDRAW
Attorney Docket No. 69858.010110	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 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 Barry J. Schindler on behalf of all attorneys of record who are associated with customer No. 32361. All attorneys/agents associated with the Customer Number 32361 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 Brian Barth at the address indicated below.

There is an outstanding Office action mailed January 29, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BRIAN E. BARTH
774 MAYS BLVD. #10-106
INCLINE VILLAGE, NV 89451

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Vahid Saadat, et al.	:	
Application No. 11/201,401	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO WITHDRAW
Attorney Docket No. USGIN06404	:	FROM RECORD
	:	

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 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend & Townsend & Crew, LLP has been revoked by the assignee of the patent application on October 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 undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHNEY HAN
LEVINE BAGADE HAN, LLP
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94030

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DUGAN & DUGAN, PC
55 SOUTH BROADWAY
TARRYTOWN NY 10591

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JUL 1 0 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yudovsky, et al. :
Application No. 11/201,402 :
Filed: August 10, 2005 :
Attorney Docket No. 8849/CMP/RKK :
For: METHODS AND APPARATUS FOR ADJUSTING BELT TENSION OF A SCRUBBER

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed August 26, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on October 27, 2005. A Notice of Abandonment was mailed on May 2, 2006.

Applicants have submitted a proper reply to the August 26, 2005 Notice in the form of various fees, an executed declaration, and surcharge, an acceptable statement of the unintentional nature of the delay in responding to the August 26, 2005 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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QUINE INTELLECTUAL PROPERTY LAW GROUP, PC
PO BOX 458
ALAMEDA, CA 94501

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OCT 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Emil A. TANAGHO, et al	:	
Application No. 11/201,408	:	DECISION ON PETITION
Filed: August 9, 2005	:	TO WITHDRAW
Attorney Docket No. UCSFP027D1US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 13, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Quine Intellectual Propety Law Group, PC, has been revoked by the assignee of the patent application on August 20, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BEYER WEAVER LLP
500 12TH STREET, SUITE 200
OAKLAND, CA 94607

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UNITED STATES DEPARTMENT OF COMMERCE
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Emil A. Tanagho	: DECISION ON REQUEST FOR
Patent Number	: 7643880	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,408	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1015** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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
11/201,409	08/09/2005	1732	1130	D-4154	8	20	1

CONFIRMATION NO. 4470

CORRECTED FILING RECEIPT

OC000000018078588

33197
STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

Date Mailed: 02/17/2006

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)

Neil G. Goodenough, Southampton, UNITED KINGDOM;
Gregg A. Dean, Southampton, UNITED KINGDOM;
Sarah E. Darnton, Southampton, UNITED KINGDOM;
Richard C. Rogers, Chandler's Ford, UNITED KINGDOM;
Philip A. Brame, Southampton, UNITED KINGDOM;
Geoffrey A. Blyth, Bishops Waltham, UNITED KINGDOM, Deceased;
Eve Blyth, Southampton, UNITED KINGDOM, Legal Representative;
Sarah L. Almond, Chandler's Ford, UNITED KINGDOM;
Ian Bruce, Southampton, UNITED KINGDOM;
Pete Coldrey, Southampton, UNITED KINGDOM;
Jamie Snell, Southampton, UNITED KINGDOM;

Assignment For Published Patent Application

CooperVision Inc., Fairport, NY

Power of Attorney:

Frank Uxa Jr--25612
Robert Buyan--32460
Donald Stout--34493
Kenton Mullins--36331
Linda Fox--38883
Greg Hollrigel--45374

Domestic Priority data as claimed by applicant

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 US11/201,409

Projected Publication Date: Incomplete Reply

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for producing silicone hydrogel contact lenses

Preliminary Class

264

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/201,410	08/09/2005	1732	1780	D-4127	12	29	4

CONFIRMATION NO. 4481

UPDATED FILING RECEIPT

OC000000017760018

33197
STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

Date Mailed: 01/03/2006

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)

Ian Bruce, Southampton, UNITED KINGDOM;
Sarah L. Almond, Chandler's Ford, UNITED KINGDOM;
Philip A. Brame, Southampton, UNITED KINGDOM;
Geoffrey A. Blyth, Southampton, UNITED KINGDOM, Deceased;
Eve Blyth, Southampton, UNITED KINGDOM, Legal Representative;

Assignment For Published Patent Application

CooperVision Inc., Fairport, NY

Power of Attorney:

Frank Uxa Jr--25612
Robert Buyan--32460
Donald Stout--34493
Kenton Mullins--36331
Linda Fox--38883
Greg Hollrigel--45374

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/20/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/201,410

Projected Publication Date: 02/15/2007

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for removing lenses from lens molds

Preliminary Class

264

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

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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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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of Kohei Mori Application No. 11/201,424 Filed: August 11, 2005 Attorney Docket No: SON-3394	: : : : :	ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 30, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 30, 2007. A Notice of Abandonment was mailed on January 2, 2008. In response, on January 8, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SEP 2 8 2006
OFFICE OF PETITIONS

Christopher W. Sommer
5933 E. Calle Del Paisano
Phoenix AZ 85018

In re Application of
Christopher Sommer
Application No.11/201,481
Filed: August 11, 2005
Title of Invention: Water Viewing Device and Method for Alternating Depth Perspectives

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 5, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on August 29, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 30, 2005. A Notice of Abandonment was mailed on May 10, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

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

DATE 11/6/07 APPLICATION NUMBER 11/201485

DOC CODE Cert. of Correction DOC DATE 11/6/07

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 05,2007

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/201,485 Patent No.: 7266988 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2855

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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INTEL CORPORATION
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED

OCT 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Matthews et al.	:	
Application No. 11/201,494	:	DECISION ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. 42P21576	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2009, 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 October 14, 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 by operation of law on December 15, 2008. *See* MPEP 1215.04. A Notice of Abandonment was mailed May 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2116 for appropriate action by the Examiner in the normal course of business on the reply received August 17, 2009.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Address: COMMISSIONER FOR PATENTS
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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP - ALTERA
ATTN: ALTERA
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Wen-Chou Wang	: DECISION ON REQUEST FOR
Patent Number	: 7602062	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **466** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 - ALTERA
ATTN: ALTERA
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 05/17/2010

Applicant : Wen-Chou Wang
Patent Number : 7602062
Issue Date : 10/13/2009
Application No : 11/201,515
Filed : 08/10/2005

: 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 **501** 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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ROBERT E. CONNUSCIO
DRINKER BIDDLE & REATH LLP
OONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
KILMER, Jon	:	
Application No. 11/201,517	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 8092-158 (201067)	:	FROM RECORD
	:	

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 24, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 February 6, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LEWIS HENDLER, ESQ.**
LN INTERNATIONAL, INC.
P.O. BOX 689
HINTINGTON VALLEY, PA 19006

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Alan Thomas Brooker	: DECISION ON REQUEST FOR
Patent Number	: 7605116	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **504** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Jack A. Dant	: DECISION ON REQUEST FOR
Patent Number	: 7637918	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,568	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Michael A. Haase	: DECISION ON REQUEST FOR
Patent Number	: 7615501	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,587	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **858** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DICKE, BILLIG & CZAJA, PLLC
FIFTH STREET TOWERS
SUITE 2250
100 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Jason Parkerson	:	
Application No. 11/201,588	:	DECISION DISMISSING
Filed: April 11, 2005	:	PETITION UNDER
For: LATCHING SYSTEM FOR	:	37 CFR 1.47(b)
STORAGE BIN	:	

This is in response to the Rule 47(b) Petition to File Application by Other than Inventor, filed December 3, 2005, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 application was filed August 11, 2005, without an executed oath or declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice" on September 9, 2005, requiring, inter alia, a fully executed oath or declaration.

In response to the Notice, Applicant files the instant petition and Combined Declaration and Power of Attorney (Declaration") executed by the Director of Operations for Tote Systems

International, LP. The executed Declaration does not contain inventor information (name, residence, post office address, or citizenship).

Applicable Law

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(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (2) as set forth above.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice President, Secretary, Treasurer, or Chief Executive Officer thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of the corporation, either proof of the attorney or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of the assignee, *see* MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Steager v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration

> required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). (Emphasis supplied).

As to item (2), the oath or declaration has been executed by the Director of Operations for Tote Systems International, LP. The MPEP section 324 provides that

> An officer (chief executive officer, president, vice-presi-dent, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are acceptable, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager" or "Director" is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.
>
> (B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).
>
> (C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.

> Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

Applicant must provide evidence of the Director of Operations' authority to sign the Declaration.

Further as to item (2), the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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FIFTH STREET TOWERS
SUITE 2250
100 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Jason Parkerson	:	
Application No. 11/201,588	:	DECISION GRANTING
Filed: April 11, 2005	:	PETITION UNDER
For: LATCHING SYSTEM FOR	:	37 CFR 1.47(b)
STORAGE BIN	:	

This is in response to the Response to Decision Dismissing Petition Under 37 CFR 1.47(b), filed February 15, 2006, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Jason Parkerson, refuses to join in the application.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MR. JASON PARKERSON
305 COUNTRY MEADOW DRIVE
MANSFIELD, TX 76063

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MAR 3 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Jason Parkerson	:	
Application No. 11/201,588	:	LETTER
Filed: April 11, 2005	:	
For: LATCHING SYSTEM FOR	:	
STORAGE BIN	:	

Dear Mr. Parkerson:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As the 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) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: DICKE, BILLIG & CZAJA, PLLC
FIFTH STREET TOWERS
SUITE 2250
100 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402

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BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

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NOV 2 8 2006
OFFICE OF PETITIONS

In re Application of	:	
TESSEL, et al.	:	
Application No. 11/201,596	:	DECISION ON PETITION
Filed: August 10, 2005	:	TO WITHDRAW
Attorney Docket No. 5523/1DIV	:	FROM RECORD
	:	

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 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 Pristine Johannessen on behalf of all attorneys of record who are associated with Customer No. 29858. All attorneys/agents associated with the Customer Number 29858 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 all future correspondence will be directed to the first named inventor David Tessel at the address indicated below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: David Tessel
625 Waverly Avenue
Mamaroneck, NY 10543

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
11/201,596	08/10/2005	David Tessel	5523/1DIV

CONFIRMATION NO. 6882

OC000000021371052

29858
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

Date Mailed: 11/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2006.

- 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.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Chun - Wah (Phil) Lin	: DECISION ON REQUEST FOR
Patent Number	: 7618588	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1134** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

WAGNER, MURABITO & HAO LLP
THIRD FLOOR
TWO NORTH MARKET STREET
SAN JOSE CA 95113

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Marc Fleischmann et al	:	
Application No. 11/201,624	:	ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. TRAN-P450	:	

This is a decision on the petition, filed June 21, 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 **DISMISSED**.

Office finance records do show that an attempt to pay the Issue fee by check was made on May 14, 2007. However, the check was returned as upaid on May 23, 2007. Therefore, the application appears to be abandoned for failure to pay the issue fee by the due date of May 9, 2007.

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 facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: Randolf Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRANSMETA C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

COPY MAILED

JUL 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Marc Fleischmann et al	:	
Application No. 11/201,624	:	DECISION GRANTING PETITION
Filed: August 10, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TRAN-P450	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 22, 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 2115 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 28 2005

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of	:
Andrew V. Olenikov	:
Serial No.: 11/201,629	: PETITION TO MAKE SPECIAL
Filed: August 10, 2005	:
Attorney Docket No.: 51298-00003	:

This is in response to the petition filed August 10, 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, XII. Therefor the petition is **GRANTED**.

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 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CANON U.S.A. INC.
INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Miyazaki	:	
Application No. 11/201,643	:	DECISION
Filed/Deposited: 10 August, 2005	:	
Attorney Docket No. 10019601US01	:	

This is a decision on the petition filed on 26 March, 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 **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Petitioner may, in the alternative, file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that

guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 August, 2008, with reply due absent extension of time on or before 14 November, 2008.

The application went abandoned by operation of law after midnight 14 November, 2008.

The Office mailed the Notice of Abandonment on 6 March, 2009.

On 26 March, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, but failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring:

- a copy, *inter alia,* , *inter alia* of the Petitioner's/firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and;
- recitations, *inter alia*, as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

The guidance in the Commentary at MPEP 711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Petitioner is requested to review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and then seek to satisfy those requirements. Alternatively, Petitioner may file a petition to revive pursuant to the regulations at 37 C.F.R. §1.137(b). Petitioner should review the current fee schedule at the Office website for fees due at the time of filing.

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). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANON U.S.A. INC.
INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Miyazaki	:	
Application No. 11/201,643	:	DECISION
Filed/Deposited: 10 August, 2005	:	
Attorney Docket No. 10019601US01	:	

This is a decision on the petition filed on 14 July, 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

Petitioner's 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 non-final Office action mailed on 14 August, 2008, with reply due absent extension of time on or before 14 November, 2008.

The application went abandoned by operation of law after midnight 14 November, 2008.

The Office mailed the Notice of Abandonment on 6 March, 2009.

On 26 March, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, but failed to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring:

- a copy, *inter alia,* , *inter alia* of the Petitioner's/firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and;

- recitations, *inter alia*, as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

The petition was dismissed on 3 June, 2009.

On 14 July, 2009, Petitioner requested reconsideration of the petition, provided the docket sheet for the application and a due date calendar for his office, and made the statements required in the guidance in the Commentary at MPEP 711.03(c)(I).

The guidance in the Commentary at MPEP 711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

calendar; reminder system; or the individual docket record for the application in question.[1]

***

Out of an abundance of caution, 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]

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STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 6 March, 2009, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2624 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.

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Gyu-Bum Kyung	: DECISION ON REQUEST FOR
Patent Number	: 7600174	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,663	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **712** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/18/2010

Applicant : Gyu-Bum Kyung
Patent Number : 7600174
Issue Date : 10/06/2009
Application No : 11/201,663
Filed : 08/10/2005

: 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 **815** 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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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Terry G. Phillips	: DECISION ON REQUEST FOR
Patent Number	: 7613855	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,665	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **304** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BLVD.
SUITE 1500
HOUSTON, TX 77056

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OFFICE OF PETITIONS

In re Application of :
Hien Dang, et. al. :
Application No. 11/201,673 : ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. YOR920010635US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application. The delay in responding is sincerely regretted.

The application became abandoned for failure to file a reply to the non-final Office action mailed on March 17, 2008.

The undersigned notes that the finality of the Office action was withdrawn in an Interview Summary mailed on January 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

A courtesy copy of this decision is being mailed to the address given in the present petition[1]. Thereafter, all future correspondence will mailed to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 2627 for review of the amendment filed with the present petition.

[1] If appropriate, a change of correspondence should be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Gero G. McClellan
Patterson & Sheridan, LLP
1150 Revolution Mill Drive, Studio 5
Greensboro, NC 27405

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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
11/201,688	08/11/2005	2133	1000	X-1964 US	6	20	3

CONFIRMATION NO. 6209

CORRECTED FILING RECEIPT

OC000000020473854

24309
XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Date Mailed: 09/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Himanshu J. Verma, Mountain View, CA;

Assignment For Published Patent Application

Xilinx, Inc., San Jose, CA

Power of Attorney: The patent practitioners associated with Customer Number **24309**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/201,688

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Method and apparatus for measuring crosstalk on a programmable logic device

Preliminary Class

714

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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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of	:	
Mukherjee et al.	:	
Application No. 11/201,694	:	DECISION GRANTING PETITION
Filed: 10 August, 2005	:	
Atty Dckt No. H0008791-3026	:	

This is a decision in reference to the petition filed on 13 February, 2005, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 10 August, 2005, rather than the currently-accorded filing date of 11 August, 2005.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail Service on 10 August, 2005. In support, petitioner has provided a copy of the Express Mail Customer Label EV686435581US. (the same Express Mail number found on the itemized utility application transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail label is "8-10-05". Additionally, the Express Mail contains an official USPS postmark dated August 10, 2005. Lastly, a review of the USPS Track & Confirm database reveals that the above-identified Express Mail shipment was accepted by the USPS on 10 August, 2005.

As such, the showing of record is that the correct date of deposit in Express Mail is 10 August, 2005.

In view of the above, the petition is granted. No fee is required and none has been charged.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **10 August, 2005**, and for issuance of a corrected Filing Receipt.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Jaeyoung Kwak et al	:	
Application No. 11/201,695	:	DECISION GRANTING PETITION
Filed: August 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1-2-0821.1US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 7, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 29, 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 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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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OFFICE OF PETITIONS

HOWSON & HOWSON LLP / WYETH
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

In re Patent No. 7,569,679 Shen et al. Issue Date: August 4, 2009 Application No. 11/201,696 Filed: August 11, 2005 Attorney Dkt. No. AM-101797 Title: TANAPROGET DERIVATIVES, METABOLITES, AND USES THEREOF	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the " Application for Patent Term Adjustment Including Request For Reconsideration under 37 C.F.R. §1.705(b)" filed August 27, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentees request that the patent term be adjusted from 326 days to 684 days.

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 4, 2009, the above-identified application matured into US Patent No. 7,569,679 with a patent term adjustment of 326 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 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays

"occur on the same day." Patentees maintain the 358 days delay under § 154(b)(1)(B) do not overlap with the delay under § 154(b)(1)(A). Thus, patentees request that the determination of patent term adjustment be increased to a total of six hundred eighty-four (684) days (the sum of the period of three-year delay (358 days) and the period of examination delay (366 days) minus applicants' delay (40 days)). Patentees do not dispute the 40 day reduction for applicants delay.

Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of

> delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 11, 2005 until issuance on August 4, 2009. This 358 days of pendency over three years is the relevant period for considering overlap. 366 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §1.702(a)(1). Entry of both 358 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 366 days pursuant to 37 CFR §1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 366 days and then another 358 days. The greater period, 366 days, is the actual number of days issuance of the patent was delayed by the Office.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 326 (366-40) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee under § 1.18(e) is required on petition under § 1.705(d) and will not be refunded.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
For Patent Examination Policy

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United States Patent and Trademark Office
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HOWSON & HOWSON LLP / WYETH LLC
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Li Shen	: DECISION ON REQUEST FOR
Patent Number	: 7569679	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,696	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **684** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Jennifer GONYA	:	
Application No. 11/201,707	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 2719.002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 31, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, Uncertainty as to the client's ability to pay for legal services, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed November 8, 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: JENNIFER GONYA
2389 STEWARD COURT
GALENA, OH 43021

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OCT 13 2005

TECHNOLOGY CENTER 3600

DAVID E. HERRON II
P.O. BOX 2778
KANSAS CITY, KS 66110

In re application of Steven J. Pelegrin Application No. 11/201,710 Filed: August 12, 2005 For: LIGHTED FISHING LURE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 15, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney 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 a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 15, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on August 12, 2005.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 09/29/05

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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OFFICE OF PETITIONS

In re Application of	:	
Shameem et al.	:	
Application No. 11/201731	:	ON APPLICATION FOR
Filing or 371(c) Date: 08/11/2005	:	PATENT TERM ADJUSTMENT
Attorney Docket Number: PD06195US01	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b), filed July 29, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 969 days, not 501 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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.

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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

Mail Date: 04/30/2010

Applicant	: Mohammed Shameem	: DECISION ON REQUEST FOR
Patent Number	: 7632491	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/201,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **976** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

In re application of	:	**DECISION ON PETITION**
Craig Weaver	:	**TO MAKE SPECIAL**
Application No. 11/201,737	:	**(ACCELERATED**
Filed: August 11, 2005	:	**EXAMINATION)**
For: WALKER WITH LIFTING ARMS		

This is in response to the renewed petition filed on December 12, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 1/18/06

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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OFFICE OF PETITIONS

In re Application of	:
Francis Willett, Heather Price and	:
Steven Hester	: DECISION ACCORDING STATUS
Application No. 11/201,750	: UNDER 37 C.F.R. § 1.47(a)
Filed: August 11, 2005	:
Atty Docket No. 60,137-382/	:
410-3131-U	:

This is a decision on the PETITION UNDER RULE 37 CFR 1.47(a) filed March 1, 2006 (certificate of mailing Monday, February 27, 2006).

The petition is **GRANTED**.

The above-identified application was filed on August 11, 2005, without an executed oath or declaration (and missing the basic filing, examination and search fees). Accordingly, on August 26, 2005, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and the surcharge for its late filing (and the missing fees). This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition, made timely by an accompanying petition and fee for extension of time within the fourth month (and the missing fees). The petition included a declaration executed by joint inventors Price and Hester on behalf of themselves and on behalf of non-signing inventor Willett. Applicants assert that status under 1.47(a) is proper because joint inventor Willett refuses to join in the application. By statement of facts of patent attorney John Carlson, and based on first hand knowledge and with supporting

documentary evidence, applicants show that after having been presented with the application papers inventor Willett expressly refused to join in the application.

The declaration filed March 1, 2006, has been reviewed and found in compliance with § 1.63. The petition includes the petition fee (of $200) and the last known address of inventor Willett.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MR. FRANCIS WILLETT
2748 SPIELMAN HEIGHTS DR
ADRIAN, MI 49221

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In re Application of	:	
Francis Willett, Heather Price and	:	
Steven Hester	:	LETTER
Application No. 11/201,750	:	
Filed: August 11, 2005	:	
Atty Docket No. 60,137-382/	:	
410-3131-U	:	

Dear Mr. Willett:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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Robert D. Buyan
Stout, Uxa, Buyan & Mullins, LLP
Suite 300
4 Venture
Irvine CA 92618

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OFFICE OF PETITIONS

In re Application of	:	
Mark Ventura	:	
Application No. 11/201,758	:	DECISION ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. VNTEP-002A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 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 April 18, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 18, 2007. Accordingly, the date of abandonment of this application is April 19, 2007. A Notice of Abandonment was mailed on May 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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St. Paul, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of

Cybulski, et al.

Application No. 11/201,763

Filed: August 11, 2005

Attorney Docket No. 61092US002

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed September 20, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on May 23, 2006, after it was believed that no response was received to non-final Office action mailed February 22, 2006. The non-final Office action allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 15, 2006, indicating that a *bona fide* reply to the non-final Office action was not received.

The instant petition maintains that the response to the non-final Office action was mailed on June 22, 2006, with a request for an extension of time within the first month. A review of the application file revealed and amendment filed June 26, 2006, (certificate of mailing dated June 22, 2006) with a request for an extension of time within the first month.

Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 3700, GAU 3723, for further processing to include processing of the amendment filed June 26, 2006.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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John M. Card
General Motors Corporation, Legal Staff
Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

In re Application of	:	
Yang-Tse Cheng et al.	:	
Application No. 11/201,773	:	DECISION ON PETITION
Filed: August 11, 2005	:	PURSUANT TO
Attorney Docket No. GP-304842-RD-KAM	:	37 C.F.R. § 1.181(A)
Title: MAGNETORHEOLOGICAL FLUID COMPOSITIONS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on August 28, 2008, to withdraw the holding of abandonment.

This petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in

reply to the Notice of Allowance and Issue Fee Due, mailed March 27, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees.[1] Accordingly, the above-identified application became abandoned on June 28, 2008. A Notice of Abandonment was mailed on July 31, 2008.

ANALYSIS

With the present petition, Petitioner has alleged that the Notice of Allowance and Issue Fee Due was mailed to the wrong address.

The electronic file has been reviewed, and it is noted that on March 4, 2008, a "Power of Attorney and Designation of Correspondence Address" was filed. It appears that shortly after this mailing was received, the Office entered an improper address as the address of record. Consequently, the Notice of Allowance and Issue Fee Due that was subsequently mailed less than one month later was mailed to the wrong address. The communication was mailed to a law firm in California, when it should have been mailed to the Assignee in Michigan.

The address of record has been reverted to the address that appears above.

Petitioner has established that the Notice of Allowance and Issue Fee Due was mailed to the wrong address. However, section 711.03(c) of the MPEP sets forth two criteria by which a petitioner may seek the withdrawal of the holding of abandonment: a petition to withdraw the holding of abandonment may be based on either a failure to receive the Office action (MPEP § 711.03(c)(I)(A)) or a showing that a reply was timely submitted to the Office (MPEP § 711.03(c)(I)(B)).

An allegation that the communication was mailed to the wrong address, by itself, is not a method by which a petitioner can establish that a holding of abandonment should be withdrawn.

It is noted that **Petitioner has not asserted that the Notice of Allowance and Issue Fee Due was not received** by the Assignee (the address of record). It is further noted that Petitioner is not located at the address of record, and as such, is not in a position where he would be able to make such an assertion.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not**

1 See MPEP § 710.02(e).

permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

On renewed petition, Petitioner should submit a statement from the Assignee, asserting that the Notice of Allowance and Issue Fee Due was not received at the (proper) official correspondence address of record: John M. Card, General Motors Corporation, Legal Staff, Mail Code 482-C23-B21, P.O. Box 300, Detroit MI 48265-3000.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

As noted above, the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[6] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: CANTOR COLBURN LLP
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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Paper No.

John M. Card
General Motors Corporation, Legal Staff
Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of Yang-Tse Cheng et al. Application No. 11/201,773 Filed: August 11, 2005 Attorney Docket No. GP-304842-RD-KAM Title: MAGNETORHEOLOGICAL FLUID COMPOSITIONS	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed on October 16, 2008, to withdraw the holding of abandonment.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 27, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees.[1] Accordingly, the above-identified application became abandoned on June 28, 2008. A Notice of Abandonment was mailed on July 31, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on August 28, 2008, and was dismissed via the mailing of a decision on September 26, 2008.

1 See MPEP § 710.02(e).

ANALYSIS

With the original petition, Petitioner established that the Notice of Allowance and Issue Fee Due was mailed to the wrong address, however it was not asserted that the communication had not been received.

With this renewed petition, Petitioner has included a statement from an employee of the Assignee, indicating that the Notice of Allowance and Issue Fee Due was not received at the proper official correspondence address of record.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the relevant communication was not received.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN.**

Regarding Petitioner's request for an adjustment to the patent term, any such request must be made pursuant to 37 C.F.R. § 1.705(b) under separate cover.

The Office of Patent Publication will be notified of this decision, and the Office of Patent Publication will re-mail the Notice of Allowance and Issue Fee Due, mailed March 27, 2008.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: CANTOR COLBURN LLP
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

COPY MAILED

JUN 06 2008

In re Application of	:	
Trevor Jackson, et al.	:	
Application No. 11/201,780	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 1942704317	:	FROM RECORD
	:	

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, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Calfee, Halter & Griswold, LLP has been revoked by the applicant of the patent application on January 17, 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: JOHN D. GUGLLIOTTA
6100 OAK TREE BOULEVARD
SUITE 200
INDEPENDENCE, OH 44131

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS, MI 48304-2970

Mail Date: 04/21/2010

Applicant	: David E. Stevenson	: DECISION ON REQUEST FOR
Patent Number	: 7658822	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,781	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **26** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
www.uspto.gov

DICKE, BILLIG & CZAJA, P.L.L.C.
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

COPY MAILED
AUG 14 2006
OFFICE OF PETITIONS

In re Application of :
Feldtkeller : DECISION ON PETITION
Application No. 11/201,822 :
Filed: August 11, 2005 :
Dkt. No.: I434.125.101/IFT1080US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 12, 2006.

This application was held abandoned October 27, 2005 for failure to timely submit a proper reply to the communication mailed August 26, 2005. Notice of Abandonment was mailed May 2, 2006.

Petitioner asserts that a response to the Office communication was timely submitted on October 26, 2005 and has submitted as proof of USPTO receipt of the response a return postcard dated stamped October 26, 2005.

The original response submitted October 26, 2005 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE, SUITE 600
DALLAS, TX 75201-2980

MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of
Shmuel Shaffer et al
Application No. 11/201,832
Filed: August 10, 2005
Attorney Docket No. 062891.1643

ON PETITION

This is a decision on the petition, filed April 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 February 3, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2618 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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Shmuel Shaffer	: DECISION ON REQUEST FOR
Patent Number	: 7636339	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **269** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Robert Garryl Hudgins	: DECISION ON REQUEST FOR
Patent Number	: 7618457	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,837	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **515** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Avaya
DEMONT & BREYER, LLC
100 COMMONS WAY, STE 250
HOLMDEL NJ 07733

DEC 0 8 2008

In re Application of:
BENGI KARACALI-AKYAMAC et al
Appl. No.: 11/201,892
Filed: August 11, 2005
For: QUALITY-OF-SERVICE ASSURANCE FOR IP TELEPHONY

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed November 21, 2008, to expunge a fax transmitted on November 11, 2008.

The petition is **GRANTED**.

Petitioner requests that the fax filed on November 11, 2008 be expunged from the record. Petitioner states that the fax was clearly labeled "DO NOT ENTER" in large letters on every page; however, the fax was put in the file wrapper. Petitioner statements meet the requirements of 37 CFR § 1.59(b) and the petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3126.

Chau T. Nguyen
Workgroup Quality Assurance Specialist
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
James D. Bernstein	:	
Application No. 11/201925	:	ON PETITION
Filing or 371(c) Date: 08/11/2005	:	
Attorney Docket Number:	:	
TI-38820	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed January 22, 2009.

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 13, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 14, 2008.

Applicant files the present petition, Notice of Appeal and fee, and Pre-Appeal Brief Request for Review.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee, and Pre-Appeal Brief Request for Review; (2) the petition fee; and (3) a proper statement of unintentional delay.

Accordingly, the petition is granted. The application is being referred to Technology Center Art Unit 2813 for response to the Pre-Appeal Brief Request for Review.

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
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Alexandria, Virginia 22313-1450
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Lewis S. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7624762	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,938	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

OCT - 3 2007

In re Application of	:	
William E. Olliges	:	DECISION ON
Serial Number: 11/201,941	:	PETITION UNDER
Filed: August 10, 2005	:	M.P.E.P. 708.02(IV)
For: MULTI-PHASE DISTILLATE FUEL	:	
COMPOSITIONS AND CONCENTRATES	:	
CONTAINING EMULSIFIED BORIC ACID	:	

This is in response to the petition filed September 21, 2007, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP and 37 CFR 1.102(c)

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

OCT - 3 2007

In re Application of	:	
William E. Olliges	:	DECISION ON
Serial Number: 11/201,942	:	PETITION UNDER
Filed: August 10, 2005	:	M.P.E.P. 708.02(IV)
For: MULTI-PHASE LUBRICANT COMPOSITIONS	:	
CONTAINING EMULSIFIED BORIC ACID	:	

This is in response to the petition filed September 21, 2007, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP and 37 CFR 1.102(c)

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Martin Langhammer	: DECISION ON REQUEST FOR
Patent Number	: 7587438	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/201,945	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **561** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 05/06/2010

Applicant	: Zhengrong Song	: DECISION ON REQUEST FOR
Patent Number	: 7660746	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/201,957	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1218** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

REED SMITH LLP
Intellectual property
Attn: PO Box 7990
Philadelphia PA 19101

COPY MAILED
JAN 29 2010

In re Application of	:	
Richard Hata	:	DECISION ON PETITION
Application No. 11/201,962	:	PURSUANT TO
Filed: August 11, 2005	:	37 C.F.R. § 1.182
Attorney Docket No. 05-40116-US	:	
(884886.20001	:	
Title: GRATE FOR EFFICIENTLY	:	
BURNING FUEL	:	

This is in response to the petition filed on November 20, 2009, pursuant to 37 C.F.R. § 1.182, requesting the change of the name of the sole inventor. Specifically, Petitioner has requested that "Richard Hata" be changed to "Richard De Leon." Petitioner has explained that the last name "Hata" is erroneous.[1]

This petition is **DISMISSED.**

With this petition, Petitioner has included the petition fee. This petition cannot be granted however, for the following two reasons.

First, Petitioner has not included an executed oath or declaration that contains the correct name of the sole inventor.

Second, Petitioner must include a statement from the inventor which explains why he executed a declaration that contains an erroneous last name.

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.182. Therefore, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are**

[1] Petition, page 1.

not permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[6] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

OIPE IAP2
FEB 05 2007
PATENT & TRADEMARK OFFICE

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/201,969 (Conf. No. 6135)
Filing Date	August 10, 2005
First Named Inventor	Semyon A. Shimanovich
Art Unit	1755
Examiner Name	Anthony J. Green
Attorney Docket Number	CS-1 Div.

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
Jacqueline M. Stone, Director
Technology Center 1700/2900
3-21-07

Please withdraw me as attorney or agent for the above identified patent application, and

☒ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client has failed to pay one or more bills for an unreasonable period of time (37 C.F.R. § 10.40(c)(1)(vi))

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☒ Firm or Individual Name	Earl A. Rogers				
Address	Concrete Scientific, Inc., P.O. Box 158				
City	Gardiner	State	NY	Zip	12525
Country	USA				
Telephone	845-255-0878			Email	earl@concretescientific.com
Signature	Adam Saltzman				
Name	Adam M. Saltzman		Registration No.	52,188	
Date	February 1, 2007		Telephone No.	212-596-9000	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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COHEN, PONTANI, LIEBERMAN &
PAVANE
551 Fifth Avenue, Suite 1210
New York NY 10176

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NOV 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Callamand et al.	:	
Application Number: 11/201986	:	
Filing or 371(c) Date: 08/11/2005	:	ON PETITION
Attorney Docket Number: 5460-39PCON	:	

This is a decision on the "Petition Under 37 CFR 1.182," filed September 29, 2008, to withdraw the Terminal Disclaimer filed May 30, 2008.

The petition is **granted**.

Applicant files the present petition and requests withdrawal of the Terminal Disclaimer. Applicant provides that the Examiner stated that the application is in condition for allowance without the Terminal Disclaimer filed May 30, 2008.

The Manual of Patent Examining Procedure ("MPEP") 1490, which states:

> While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "un-happy circumstance" in In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. Since the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

As the Examiner has agreed to the withdrawal of the Terminal Disclaimer, the petition is granted.

The application is being referred to Technology Center Art Unit 1791 for withdrawal of the Terminal Disclaimer, filed May 30, 2008.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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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MARY ELIZABETH BUSH
QUALLION LLC
P.O. BOX 923127
SYLMAR, CA 91392-3127

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OCT 24 2005
OFFICE OF PETITIONS

In re Application of	:	
Chow et al.	:	
Application No. 11/201,987	:	DECISION GRANTING
Filed: August 10, 2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47
BATTERY PACK	:	

This decision is in response to the Petition Under 37 CFR 1.47(a), filed October 3, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Lu Chow, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Mr. LU CHOW
8221 JOSHUA COURT
SAN GABRIEL, CA 91775

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OCT 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Chow et al.	:	
Application No. 11/201,987	:	LETTER
Filed: August 10, 2005	:	
Title of Invention:	:	
BATTERY PACK	:	

Dear Mr. CHOW:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: MARY ELIZABETH BUSH
QUALLION LLC
P.O. BOX 923127
SYLMAR, CA 91392-3127

OIPE IAP17
OCT 05 2005
PATENT & TRADEMARK OFFICE

PATENT
Q227-US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
CHOW, Lu et al.
Serial No: 11/201,987
Filed: August 10, 2005
For: BATTERY PACK

Art Unit: 2838
Examiner: Unknown

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

This document is submitted in response to the NOTICE TO FILE MISSING PARTS OF APPLICATION, dated August 29, 2005.

The following documents are enclosed herein.

1. Executed Declaration/Power of Attorney (3 pages).
2. Notice to File Missing Parts of Application (2 pages).
3. Petition Under 37CFR1.47(a) and 35USC116 (2 pages).
4. Declaration of Lisa K. Robbins (3 pages)
5. Exhibits A-L accompanying Declaration (37 pages including tabs).
6. Two copies of a Fee transmittal (2 pages).
7. Form PTO-2038, credit card authorization (1 page).
8. Return post card (1 page).

Form PTO-2038, credit card authorization is enclosed to cover a $65.00 missing parts surcharge, and $130.00 for a Petition Surcharge pursuant to 37 § CFR 1.17(h). Authorization is given to charge any deficit or credit any excess to Deposit Account No. 50-0921.

Adjustment date: 10/24/2005 AKELLEY
10/07/2005 BABRAHA1 00000008 11201987
02 FC:1464 -130.00 OP

Respectfully submitted

Date: 10/5/2005

Travis Dodd
Reg. No. 42,491

10/24/2005 AKELLEY 00000005 500921 11201987
01 FC:1463 70.00 DA 130.00 OP

Travis Dodd, Esq.
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Sylmar, CA 91392-3127
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AUG 2 5 2006

OFFICE OF PETITIONS

CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK, NY 10038

In re Application of :
Yu : DECISION ON PETITION
Application No. 11/201,999 :
For: August 11, 2005 :
Atty. Dkt. No.: 15801 B :
(TP0155-BIT) :

This is a decision on the petition under 37 CFR 1.137(a), June 13, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned November 1, 2005 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 31, 2005. The Notice set a two statutory period of time for reply. Notice of Abandonment was mailed May 10, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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 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).

The instant petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present 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 37 CFR 1.137(a) was unavoidable.

The Office 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." See, 37 CFR 1.137(a)(3). 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). A petition to revive an application as unavoidably abandoned cannot be granted where 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).

Petitioner attributes the abandonment of the instant application to the United Parcel Service (UPS). Petitioner alleges a response to the Notice was forwarded by applicant's foreign counsel (David & Raymond Patent Group) to applicant's U.S. counsel (Charles E. Baxley) via United Parcel Service (UPS). Petitioner further states that Charles E. Baxley never received the response because the response, along with other material, was accidentally destroyed by UPS.

Petitioner states that on September 2, 2005, David E. Baxley advised David & Raymond Patent Group of the Notice. Petitioner further states that a follow-up reminder was sent to David & Raymond Patent Group on September 20, 2005. Petitioner further states that in mid-October, UPS delivered a box containing "mangled papers," and, further, states that the UPS deliveryman stated that a package had been destroyed in a UPS conveyer system. Petitioner states David & Redmond was advised of the UPS incident on October 31, 2005. Petitioner further states the Notice of Abandonment was forwarded to David & Raymond Patent Group on May 17, 2006. Petitioner further states that David &

Raymond Patent Group advised in a letter dated May 26, 2006 that the response to the Notice had been forwarded to Charles E. Baxley via UPS on October 10, 2005.

Petitioner has failed to establish that the failure to timely respond to the Notice was unavoidably delayed due to the actions of UPS.

Petitioner has failed to provide any supporting documentation of the UPS incident. Even assuming the incident occurred as set forth by petitioner, petitioner has failed to establish that the documents destroyed included the response to the Notice. Moreover, petitioner as well as applicant's foreign counsel, David & Raymond Patent Group, were on notice of the incident involving UPS. That David & Raymond failed to take action to ascertain that the response to the Notice was received by Charles E. Baxley is not unavoidable within the meaning of 37 CFR 1.137(a). To the extent that David & Raymond Patent Group misunderstood the information conveyed by Charles E. Baxley, petitioner is advised that the United States 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. See, Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, applicants' delay caused by mistakes or negligence of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Douglas v. Manbeck, 21 USPQ2d (BNA)(1697)(E.D. PA Nov. 7, 1991). Consequently, the delay allegedly caused by the miscommunications and misunderstandings between Charles E. Baxley and David & Raymond Patent Group does not constitute unavoidable delay. Moreover, that delay is imputed to applicant.

Any renewed petition must establish that the entire delay, from the time that a response to the Notice was due until the filing of a grantable petition, was unavoidable. Petitioner should provide supplemental documentation of reasonably available evidence of the UPS incident, such as statements from UPS. Petitioner must also establish a nexus between the UPS incident and the response to the Notice as there is nothing in the record to establish that the package in question contained the response to the Notice. Moreover, petitioner must establish that reasonable action was taken to ensure a response to the Notice was timely submitted to the Office. Specifically, what actions

were taken by applicant's representatives (Charles E. Baxley and David & Raymond Patent Group) when it became known that the response to the Notice may have been effected by the UPS incident? While Charles E. Baxley may not have known the contents of the UPS package at issue, David & Raymond Patent Group did. The instant petition is devoid of any reasonably prudent steps that were then taken by David & Raymond Patent Group to ensure that the contents of the package had in fact been received by Charles E. Baxley after having been told of the UPS incident by Charles E. Baxley.

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:	U.S. Patent and Trademark Office Customer Window Mail Stop Petition

Randolph Building
Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK, NY 10038

In re Application of	:
Yu, et al.	: DECISION GRANTING PETITION
Application No. 11/201,999	: UNDER 37 CFR 1.137(b)
Filed: August 11, 2005	:
Atty. Dkt. No.: 15801 B	:
(TP0155-BIT)	:

This decision is in response to the petition under 37 CFR 1.137(b), filed September 28, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the Office communication mailed August 31, 2005. The Office communication set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed May 10, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Office communication is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/202,009	08/11/2005	Qiang Liu	8325-0011.02	9226

20855 7590 10/02/2008
ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

EXAMINER
KAUSHAL, SUMESH

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
10/02/2008	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

OCT 0 2 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dahna S. Pasternak
ROBINS & PASTERNAK LLP
1731 EMBARCADERO ROAD, SUITE 230
PALO ALTO CA 94303

In re Application of	:
LIU et al	:Decision on Petition
Serial No.: 11/202,009	:
Filed : 11 August 2005	:
Attorney Docket No.:8325-0011.02	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 12 December 2007 requesting reconsideration of the restriction requirement dated 22 November 2006. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national application under 35 USC 111(a). As such, this application is entitled to US restriction practice.

On 22 November 2006 and then again on 8 January 2007, the examiner required a restriction between Groups I, a method of using a zinc finger polypeptide and Group II, a method of using a zinc finger polynucleotide.

On 17 January 2007 applicants elected Group II, a method of using a zinc finger polynucleotide with traverse.

On 18 April 2007, the examiner considered the traversal and made the restriction requirement FINAL. Claims 1 and 2 were rejected under 35 USC 112, first paragraph for written description and lack of enablement.

On 5 November 2007, Claims 1 and 2 were finally rejected under 35 USC 112, first paragraph for written description and lack of enablement.

On 12 December 2007, applicants filed this petition.

On 1 May 2008, applicant filed a request for continued examination.

DISCUSSION

The file history and petition have been considered carefully.

Claim 1 is directed to a method of modulating expression of a gene in a cell by introducing a zinc finger protein or a polynucleotide encoding a zinc finger protein into a cell. Claim 2 depend upon claim 1 and requires the further limitation of a regulatory domain.

The petition argues that

- the inventions of Group I and II are not independent or distinct
- concurrent examination of Group I and II would not impose any undue burden
- Group I and II have been examined together in other applications.

Each of these arguments will be addressed in turn. MPEP 803 states:

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> > (A) The inventions must be independent (see **MPEP § 802.01, § 806.06, § 808.01**) or distinct as claimed (see **MPEP § 806.05 - § 806.05(j)**); and
> >
> > (B) There would be a serious burden on the examiner if restriction is not required (see **MPEP § 803.02, § 808**, and **§ 808.02**).

The inventions of Groups I and II are related as methods of modulating expression of a gene. MPEP 806.05(j) states:

> To support a requirement for restriction between two or more related product inventions, or between two or more related process inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status in the art, or field of search. See MPEP § **808.02**. See MPEP § **806.05(c)** for an explanation of the requirements to establish two-way distinctness as it applies to inventions in a combination/subcombination relationship. For other related product inventions, or related process inventions, the inventions are distinct if

(A) the inventions *as claimed* do not overlap in scope, i.e., are mutually exclusive;

(B) the inventions *as claimed* are not obvious variants; and

(C) the inventions *as claimed* are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § **802.01**.

The inventions of Groups I and II are distinct from each other because they have a materially different design and mode of operation. With respect to the materially different design, the polypeptide is made of amino acids which fold into tertiary structure into a zinc finger binding domain. In contrast, the polynucleotide is made of nucleic acids which can be transcribed into mRNA. With respect to the materially different mode of operations, the polynucleotide cannot bind to zinc fingers; the polypeptide cannot be transcribed into mRNA. For these reasons, the inventions are considered distinct under the test found in MPEP 806.05(j).

The petition suggests that Group I and II are related as subcombinations disclosed as usable together. From a review of the 68 page jumbo specification, no disclosure was immediately found indicating concurrent administration of both the polypeptide and the polynucleotide. However, if the specification does disclose using the polypeptide and the polynucleotide together in a combination, then distinction may be shown by using the tests in MPEP 806.05(d), which states

> Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants.

If the inventions of Groups I and II are related as subcombinations disclosed as usable together, then they may be shown to be distinct as follows. The inventions of Groups I and II are considered to be mutually exclusive because there is no embodiment within the scope of Group I that also falls within the scope of Group II and vice versa. Moreover, there is nothing on the record to indicate that the inventions of Groups I and II obvious variants over each other. For these reasons, the Office has established that the inventions of Groups I and II are distinct, within the meaning of MPEP 803(A).

MPEP 803(B) requires that the invention would impose a serious burden if restriction were not required. Burden is further defined in MPEP 808.02, which states in part:

> Where the inventions as claimed are shown to be independent or distinct under the criteria of **MPEP § 806.05(c) - § 806.06**, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

> (A) **Separate classification thereof**: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.
>
> ...
>
> (C) **A different field of search**: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

In this instance, the invention of Group I is classified in Class 514, subclass 44. In contrast, the invention of Group II is classified in Class 514, subclass 2. This meets the criteria of 808.02(A)

Moreover, in this instance, a different field of search is required for the polypeptides as for the proteins. This meets the criteria of MPEP 808.02(C).

MPEP 803 states

> If there is an express admission that the claimed inventions would have been obvious over each other within the meaning of **35 U.S.C. 103**, restriction should not be required. *In re Lee,* 199 USPQ 108 (Comm'r Pat. 1978).

If applicants wish to provide evidence or an admission that the inventions of Groups I and II are obvious variants over each other, if the examiner finds one of the inventions unpatentable over prior art, the evidence or admission may be used in a rejection under 35 USC 103(a) for the other invention.

Finally, applicants have pointed to the prosecution history of other patent applications in an effort to support their positions. Because restriction is discretionary, not mandatory and because each application is decided based upon the facts in the individual case, the prosecution history of other patent applications is immaterial to the decision mad in this application.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 12 December 2007 is **DENIED**.

The restriction requirement made between Group I and II has been maintained.

The application will be forwarded to the examiner for consideration of the request for continued examination and accompanying papers filed on 1 May 2008.

Any request for reconsideration should be filed within two months of the mail date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

George Elliott
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/4/07

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/202018 Patent No: 7147084B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER
SPE

2837
Art Unit

11/202018

IAP89
MAY 17 2007
PATENT & TRADEMARK OFFICE

Docket No.: 1381-0323PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Pekka JAHKONEN

Patent No.: 7,147,084 B2

Issued: December 12, 2006

For: ELEVATOR CONTROL USING SWITCHED SPEED AND POSITION REFERENCES (as amended)

Certificate
MAY 21 2007
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

In the Application:

The title is missing a word in it and the priority date is missing.

The errors were not in the application as filed by applicant; accordingly no fee is required.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

MAY 21 2007

PTO/SB/44 (05-07)
Approved for use through 05/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,147,084 B2
APPLICATION NO.	:	11/202,018
ISSUE DATE	:	December 12, 2006
INVENTOR(S)	:	Pekka JAHKONEN

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Application:

the title "Elevator Control Using Switched Speed and Position"

Should read:

---Elevator Control Using Switched Speed and Position References---

(30) Foreign Application Priority Data

---Feb. 27, 2003 (FI).....20030303---

MAILING ADDRESS OF SENDER (Please do not use customer number below):
D. Richard Anderson
BIRCH, STEWART, KOLASCH & BIRCH, LLP 1
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747

MAY 21 2007

DRA//rc

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.
11/202,023	08/12/2005	Christopher W. Wong	L2005.0002/P002	7406

EXAMINER
BRUSCA, JOHN S

ART UNIT	PAPER NUMBER
1631	

MAIL DATE	DELIVERY MODE
02/22/2008	PAPER

7590 02/22/2008
DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

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

02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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

SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Leroy B. Keely	: DECISION ON REQUEST FOR
Patent Number	: 7626580	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,034	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **456** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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, Virginia 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Tomomi Kosugi	: DECISION ON REQUEST FOR
Patent Number	: 7667036	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,035	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **556** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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VOLPE AND KOENIG, PC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
James V. Bacus, et al.	:	
Application No. 11/202,045	:	DECISION GRANTING PETITION
Filed: August 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P85710US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 24, 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 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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P.O. Box 1450
Alexandria, VA 22313-1450
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Jon L. Roberts
Roberts Abokhair & Mardula
Suite 1000
11800 Sunrise Valley Drive
Reston, VA 20191

COPY MAILED
JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Fabrizio Talucci	:	
Application No. 11/202,050	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 2870-006	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2005.

The request is **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 Jon L. Roberts 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 of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Fabrizio Talucci
21676 Almaden Road, Apt. B
San Jose, CA 95120-4312

cc: Paul Arena
i2 Telecom International, Inc.
1200 Abemathy Road
Suite 1800
Atlanta, GA 30328

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,050	08/11/2005	Fabrizio Talucci	2870-006

CONFIRMATION NO. 6699

OC000000019752096

OC000000019752096

22208
ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON, VA 20191

Date Mailed: 07/25/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/16/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Morten Linkenkaer-Hansen	: DECISION ON REQUEST FOR
Patent Number	: 7668326	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,089	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/26/2010

Applicant	: Minoru Sugiyama	: DECISION ON REQUEST FOR
Patent Number	: 7602082	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/202,117	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **666** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANTONELLI, TERRY,
STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

COPY MAILED
MAR 16 2009
OFFICE OF PETITIONS

In re Application of	:	
Mizuno, et al.	:	
Application No. 11/202,144	:	DECISION
Filed: 12 August, 2005	:	
Attorney Docket No. 513.45346X00	:	

This is a decision on the petition filed on 9 February, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

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. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I).

Petitioner's delay in addressing this matter is noted and discussed below.

Petitioner's manner in addressing two distinct forms of relief this matter is noted and discussed below.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to a non-final Office action (copy enclosed) mailed on 7 August, 2007, with reply due absent extension of time on or before 7 November, 2007.

The application went abandoned by operation of law after midnight 7 November, 2007.

The Office mailed the Notice of Abandonment on 18 March, 2008.

On 9 February, 2009, Petitioner filed a petition, asserting, *inter alia*, that reply was timely filed, but acknowledged, however belatedly, that Petitioner misfiled the reply in the form of an amendment into the wrong application—to wit: Petitioner erroneously filed the reply into Application No. 10/202,144, rather than into the instant application, Application No. 11/202,144. Petitioner supported his averment with a copy of the reply—evidencing the erroneous application number—with a request and fee authorization for extension of time (charged as authorized).

Petitioner's submission (when taken in combination with the record) comports with the showings as to statements and as to the documentary support consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which provide, 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]

***

The nearly eleven- (11-) month delay between the Notice of Abandonment and the filing of the instant petition is unexplained. Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c)(C) ("Treatment of Untimely Petition To Withdraw Holding of Abandonment") in this regard, which provides in pertinent part:

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a

[1] *See*: MPEP §711.03(c) (I)(B).

> holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.
>
> Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).
>
> ***

In addition, Petitioner attempts to combine petitions—that is, one petition pursuant to 37 C.F.R. §1.181 and another petition pursuant to 37 C.F.R. §1.59—in the same paper. Petitioner, as one registered to practice before the Office, is aware that such practice is not proper. (See: 37 C.F.R. §1.4(b).)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: 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).

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 18 March, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2189 for further processing as necessary in due course—*specifically to include the re-mailing of the 23 October, 2007, Notice to File Corrected Application Papers*.

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 2189 in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the 2189 where that change of status must be effected—that does not occur in the Office of Petitions.

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[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Kenji Shimada	: DECISION ON REQUEST FOR
Patent Number	: 7572758	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LATTICE SEMICONDUCTOR CORPORATION
5555 NE MOORE COURT
HILLSBORO, OR 97124-6421

Mail Date: 04/20/2010

Applicant	: David Pierce	: DECISION ON REQUEST FOR
Patent Number	: 7606851	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,149	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: 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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MAIER & MAIER, PLLC
1000 DUKE STREET
ALEXANDRIA VA 22314

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NOV 1 4 2008

OFFICE OF PETITIONS

In re Application of :
Crowson et al. :
Application No. 11/202,150 : ON PETITION
Filed: August 11, 2005 :
Attorney Docket No. 9013A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 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),

It is noted that an amendment was included with the petition filed on October 21, 2008. However, the amendment is considered non-responsive since the amendment does not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2).

The Power of Attorney filed October 21, 2008 is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

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 Alicia Kelley at (571) 272-6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action
Notice of Acceptance of Power of Attorney

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/202,150	Applicant(s) CROWSON ET AL.	
	Examiner OREN GINSBERG	Art Unit 3764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 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 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: *15-18*.
   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: _____.

/O. G./
Examiner, Art Unit 3764

Continuation of 3. NOTE: The limitation "the pair of spools includes a first spool and a second spool; a torsion spring wound on the first spool, said torsion spring having one end attached directly to the second spool" of claim 15 raises a new issue and requires further search and consideration.

Applicant argues that "As Beal discloses an exercise device comprising two springs, which are indirectly connected by a flexible belt, all of the limitations of claim 1 are not taught by Beal. Accordingly, for at least the reasons stated above, Applicant respectfully requests that the 35 U.S.C. §102(b) rejection of claim 15 be withdrawn."

Beal discloses a first spool 38 and a second spool 16. Sandwiched between the first and second spools are a torsion spring 22. Beal states "The inner end of main spring 22 is anchored in a fixed position to a main spring arbor 24 received on and keyed or otherwise secured in a fixed position to the main shaft 18. A reverse loop formed at the outer end of the main spring engages a unitizing pin 26 which projects from reel 16" on column 3 lines 1-6. Clearly, the main spring is directly attached to the second spool. Further, the spring is directly adjacent and directly connected to the first spool 38 via shaft 18.

Applicant further argues that "Furthermore, Berns, like Beal, discloses independent take-up reels (62, 64) that are biased into a fully-wound position by independgnt rotational springs (174)."

The Examiner does not rely upon Berns for the first and second spool. The Examiner modifies Beal in view of Berns in order to teach bearings for the first and second spools.

Applicant further argues that "Francis discloses two reels (50) that operate independently of each other and have independent resistance systems consisting of a spring pack (110). Therefore, it is respeotfully submitted that Francis fails to teach or disclose any element that would, alone or in combination with Beal, make applicant's independent claim 15 or dependent claim 17 obvious."

The Examiner does not rely upon Francis for the first and second spool. The Examiner modifies Beal in view of Francis in order to teach bushings for the first and second spools.

Applicant further argues that "Furthermore, Crowson does not teach or suggest the use of a torsion spring directly connected to a pair of spools for reverse-winding of the torsion spring from the first spool to a second spool."

The Examiner does not rely upon Crowson for the first and second spool. The Examiner modifies Beal in view of Crowson in order to teach a removable housing plate closing the spool housing.

Applicant further argues that "Furthermore, it is respectfully submitted that Beat, alone or in combination with Bums, Francis or Crowson, teaches away fiom Applicant's invention. If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S.v. Adams, 148 USPQ 479 (1996); Crilette Co. v. S.C. Johnson & Sort, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that Beal, as a whole, is not suggestive of the presently claimed invention and teaches away from the present invention. Specifically, Beal teaches art exercise device having two independent springs, connected by a flexible belt via two cams, with the second independent spring being necessaryy to provide a torque compensating mechanism to counteract changes in the reactive torque applied to the output reel by the main spring. Therefore, Beal clearly teaches away from Applicant's invention, which discloses a torsion spring, wound around the first of a pair of spools and having one end attached directly to the second spool, and capable of being reverse-wound around the second spool."

Firstly, applicant does not claim a "torque compensating mechanism" and therefore this limitation is given no weight with respect to the prior art. Secondly, it has been held in In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) that "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. All of the combinations of references under 35 USC 103(a) do not change the operation of the device nor destroy the function. Thus, the prior art of record does not teach away from applicant's invention.

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,150	08/11/2005	Joel L. Crowson	9013A

CONFIRMATION NO. 8022

POA ACCEPTANCE LETTER

62008
MAIER & MAIER, PLLC
1000 DUKE STREET
ALEXANDRIA, VA 22314

OC000000033053616

Date Mailed: 11/10/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2008.

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.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,150	08/11/2005	Joel L. Crowson	9013A

CONFIRMATION NO. 8022

POWER OF ATTORNEY NOTICE

John M. Harrison
2139 E. Bert Kouns
Shreveport, LA 71105

OC000000033053588

Date Mailed: 11/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2008.

- 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).

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ALEXANDRIA, VA 22314

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In re Application of	:	
Crowson et al.	:	
Application No. 11/202,150	:	ON PETITION
Filed: August 11, 2005	:	
Attorney Docket No. 9013A	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 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 December 31, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 1, 2008. A Notice of Abandonment was mailed August 19, 2008.

The present 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, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3764 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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Pierre Forte	: DECISION ON REQUEST FOR
Patent Number	: 7622212	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/202,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1056** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FROM DIRECTORS OFFICE

NOV 0 9 2005

TECHNOLOGY CENTER 3600

CAHN & SAMUELS LLP
2000 P Street NW
Suite 200
Washington, DC 20036

In re application of
Frank H. Knoll et al.
Application No. 11/202,177
Filed: August 12, 2005
For: VARIABLE ENERGY ATTENUATING APPARATUS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on August 12, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration for Mr. Knoll 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/pav: 10/28/05

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Paper No.

CAHN & SAMUELS LLP
1100 17th STREET NW
SUITE 401
WASHINGTON DC 20036

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Frank H. Knoll et al.	:	
Application No. 11/202,177	:	
Filed: August 12, 2005	:	DECISION ON PETITION
Attorney Docket No.	:	UNDER 37 C.F.R. § 1.181(A)
112.0012CON2	:	
Title: VARIABLE ENERGY	:	
ATTENUATING APPARATUS	:	

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 10, 2007.

BACKGROUND

A non-final Office action was mailed on December 20, 2005, and an amendment was received on June 20, 2006. The above-identified application became abandoned for failure to reply in a timely manner to the Notice mailed September 18, 2006, which set a one-month period for reply. 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 October 19, 2006. A notice of abandonment was mailed April 6, 2007.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

(b) 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.

ANALYSIS

With the present petition, Petitioner has alleged that a response was timely filed. Petitioner has further included a copy of this response, and it is noted that it contains a certificate of facsimile transmission dated September 26, 2006.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the terminal disclaimer that was received with the present petition can be processed.

Paul Shanoski
Senior Attorney
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunichi Sukegawa et al	:	
Application No. 11/202,180	:	DECISION GRANTING PETITION
Filed: August 12, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 276737US6	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2818 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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MAY 22 2007

TECHNOLOGY CENTER 2100

Martin Bruehs
Buchanan Ingersoll & Rooney PC
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of:
Marcus Maloof
Appl. No.: 11/202,186
Filed: August 12, 2005
For: System and Method for Detecting Malicious Executable Code

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed December 8, 2006 to expunge the preliminary amendment received November 27, 2006.

The petition is **GRANTED**.

Petitioner requests that the preliminary amendment received November 27, 2006 be expunged from the record. Petitioner statements meet the requirements of 37 CFR § 1.59(b) and the petition fee set forth in 37 CFR § 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

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VOLENTINE FRANCOS, & WHITT, PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Toshio Nagata	:	
Application No. 11/202,190	:	ON PETITION
Filed: August 12, 2005	:	
Attorney Docket No. OKI.378D	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed September 20, 2005. A Notice of Abandonment was mailed on May 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form a substitute specification with an abstract; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of a Change of Correspondence Address filed on May 22, 2006, which has been accepted and made of record.

The 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Yoshifumi Takamoto	: DECISION ON REQUEST FOR
Patent Number	: 7610362	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,196	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1030** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Caven & Aghevli, LLC
c/o Intellevate
P.O. Box 52050
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Neelam Chandwani et al.	:	
Application No. 11/202,269	:	ON PETITION
Filed: 10 August 2005	:	
Attorney Docket No. P21891	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before March 12, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue and Publication Fees; (2) the petition fee of $1500.00; and (3) a statement of unintentional delay. Accordingly, the Issue and Publication Fee payments are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Charles Smoot at (571) 272-3299, or in his absence the undersigned at (571) 272-7099.

The application file is being referred to the Publishing Division to be processed into a patent.

David Buoci
Petitions Examiner
Office of Petitions

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Nandakumar Govindaswamy
VERTEX PHARMACEUTICALS INC.
130 Waverly Street
Cambridge, MA 02139

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Ruah et al.	:	
Application No. 11/202,278	:	
Filed: August 11, 2005	:	ON PETITION
Attorney Docket No.	:	
VPI/04-110 CIP US	:	

This is a decision on the Petition Under 37 CFR 1.137(b) to revive an unintentionally abandoned application, filed March 9, 2006, and a Petition Under 37 CFR 1.53(e) filed in response to a Notice of Incomplete Nonprovisional Application. The Petition Under 37 CFR 1.137(b) is filed in response to a Notice of Termination of Proceedings. The Petition Under 37 CFR 1.53(e) is filed in response to a Notice of Incomplete Provisional Application.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

The petition under 37 CFR 1.53(e) is **granted**.

The application was filed on August 11, 2005. On September 20, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Provisional Application (hereinafter "Notice of Incomplete") stating that the application had not been accorded a filing date because the application had been deposited without drawings. The Notice of Incomplete also noted that the oath/declaration was unsigned. The Notice set a two (2) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). This Office mailed a Notice of Termination of Proceedings ("Notice of Termination"), on January 11, 2006. The Notice of Termination provided two (2) months within which Applicant may contest the Notice.

Applicant responds with the instant petitions wherein Applicant avers that drawings are not necessary for an understanding of the invention, and are not required under 35 U.S.C. § 113.

A review of the file reveals that Petitioner is correct - the specification contains composition and method claims. As stated in MPEP § 601.01(g), it is the practice of the PTO to treat an application that contains at least one composition or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. § 113 (first sentence).

MPEP § 601.01(f) states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains composition and method claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the Notice of Incomplete, mailed September 20, 2005, was mailed in error and is hereby withdrawn.

Consequently, the Notice of Termination was also mailed in error and is also hereby withdrawn.

No petition fees have been charged and none are due.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of August 11, 2005, and an indication that no drawings were required nor present on filing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Attorney
Office of Petitions

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Keisuke Takeuchi	: DECISION ON REQUEST FOR
Patent Number	: 7660995	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,286	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PAUL D. BIANCO: FLEIT, KAIN, GIBBONS,
GUTMAN, BONGINI, & BIANCO P.L.
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

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OFFICE OF PETITIONS

In re Application of	:
Peter M. Bonutti et al.	:
Application No. 11/202,294	: DECISION ON PETITION
Filed: October 5, 2005	:
Attorney Docket No: 782-A05-031	:

This is a decision on the petition filed October 5, 2005, under 37 CFR 1.182, in response to the Notice Of Omitted Items, mailed September 15, 2005.

The petition is **GRANTED**.

On August 11, 2005, applicant deposited the above-identified application. However, on September 15, 2005, the Office of Initial Patent Examination mailed a "Notice Of Omitted Items" stating that, a filing date had been assigned but, Figure 29 as described in the specification appeared to have been omitted.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the omitted item at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the omitted item was in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

Since applicant neither admits nor denies that Figure 22 was present upon filing and in view of the request to have the application accepted as filed on the date of receipt of the omitted drawing figure, the application has been accorded a filing date of October 5, 2005.

This matter is being referred to Technology Center 3732 for examination in due course.

Any further concerns specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Univation Technologies, LLC
Suite 1950
5555 San Felipe
Houston, TX 77056

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OFFICE OF PETITIONS

In re Application of
Cann et al.
Application No. 11/202,311
Filed: August 11, 2005
Attorney Docket No. 2002U020D2.US

Decision on Petition

This is a decision on the petition filed January 17, 2006, requesting, in effect, that Figure 23 filed on January 17, 2006, be entered as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

As stated in the Notice of Omitted Items:

> Should applicant contend [Figure 23] was in fact deposited ... with the nonprovisional application papers, ... a petition (and $400.00 petition fee...) with evidence of such deposit must be filed.... The petition fee will be refunded if it is determined that the item(s) was received by the Office.

The petition is not accompanied by payment of $400 or authorization to charge the fee to a deposit account. Therefore, the merits of the petition cannot be considered.

Petitioner should submit the petition fee of $400 along with a request for reconsideration.

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 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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Houston, TX 77056

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APR 2 5 2006

OFFICE OF PETITIONS

In re Application of
Cann et al.
Application No. 11/202,311
Filed: August 11, 2005
Attorney Docket No. 2002U020D2.US

Decision on Petition

This is a decision on the petition filed January 17, 2006, requesting, in effect, that Figure 23 filed on January 17, 2006, be entered as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

Facts:

The application was filed on August 11, 2005.

The Office received 35 sheets of "drawings."

Sheet 22 of the drawings, as electronically scanned into the image file wrapper, did not included a drawing figure. Instead Sheet 22 included the following language:

> Title: Production of Broad Molecular Weight Polyethylene
> Inventors: Kevin J. Cann et al.
> Attorney: Kevin F. Faulkner Registration No. 45,427
> (713) 892-3729
> 2002US020D2.US **EL 960255095 US**
>
> 22 of 35

Sheets 1-21 and 23-35 of the drawings, as scanned, do not include the information listed on Sheet 22 of the drawings.

A Notice of Omitted Items was mailed on December 8, 2005, stating that Figure 23 of the drawings appeared to be missing.

Discussion:

The petition is accompanied by 35 sheets of drawings. The petition states the 35 sheets of drawings are duplicate copies of the originally filed drawings.

The drawings filed with the instant petition ALL include information identical, other than the sheet number, to the information on Sheet 22 of the originally filed drawings. The duplicate drawings are not identical to Sheets 1-21 and 23-35 as scanned into the image file wrapper. Any

request for reconsideration should fully discuss the discrepancies between the drawings and the possibility the wrong side of Sheet 22 was electronically scanned as part of the image file wrapper.

Petitioner may wish to consider adding Figure 23 to the application via amendment rather than petition. The instant application incorporated by reference the contents of Application no. 10/716,291. A cursory review of the prior application indicates a drawing Figure which *appears* to be identical to the missing Figure 23 for the instant application.

201.06(c)(IV) states,

> The inclusion of [an] incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

201.06(c)(IV)(B) states,

> [O]mitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

If petitioner desires for the examiner to consider the missing drawing Figure, which may not have been submitted as part of the original disclosure, then petitioner may wish to submit the drawing figure as part of a formal amendment. The examiner will determine if the material is new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application.

If a request for reconsideration or amendment is not filed, the examiner will examine the application in due course using the presently accorded filing date of August 11, 2005, and the papers filed on August 11, 2005.

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 should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of originally filed Sheet 22 of the drawings

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MORRISON & FOERSTER, LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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JUN 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Kriesel, et. al.	:	DECISION ON REQUEST
Application No. 11/202,322	:	TO WITHDRAW FROM
Filed: August 10, 2005	:	RECORD
Attorney Docket No. 529212000201	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on January 27, 2006.

The request is **APPROVED**.

A review of the file record indicates that Charles D. Holland and the previous attorneys/agents of record: (1) do not have power of attorney in this patent application; but (2) have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Charles D. Holland and the previous attorneys/agents of record have been withdrawn from the present application and may not prepare or submit papers under 37 CFR § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b).

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 Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: E. THOMAS WHEELOCK
P.O. BOX 61168
PALO ALTO, CA 94306

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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of
McDermott Will & Emery LLP
Application No.: 11/202,368
Filed: August 12, 2005
Attorney Docket No: 050195-0540
For: SEMICONDUCTOR LIGHT-EMITTING DEVICE

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed November 22, 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 August 12, 2005, and was not accompanied by a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on August 22, 2005, indicating that the declaration, surcharge, filing fees were required. The notice also required a translation of the specification and replacement drawings. The notice allowed an extendable period for reply of two-months from its mailing date. On November 22, 2005, the instant petition was filed, responsively, with a request for an extension of time within the first month.

Petitioner has shown that inventor Tanaka has constructively refused to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 50-0417 will be charged 200.00 for the instant petition.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APR 28 2006
OFFICE OF PETITIONS

In re Application of:	:	
Wayne Stuart Akers	:	
Application No. 11/202,384	:	DECISION REFUSING
Filed: August 10, 2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(b)
ALGORITHMIC TRADING	:	

This is in response to a Petition under 37 CFR 1.47(b), filed March 27, 2006, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 on August 10, 2005, without an executed oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on August 29, 2005, requiring a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition and provides that "a letter was sent to the nonsigning inventor on 20 December 2005 requesting signature on the Assignments and US Power of Attorney documents." A follow-up letter was sent on

6 January, 2006 requesting the nonsigning inventor's signature. Sending the letters (and having received no reply from the nonsigning inventor), "pro[ve] that the inventor cannot be reached after diligent effort on the part of the applicant." Petition at p.2.

Applicable Law

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(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks item (1) as set forth above.

As to item (1), it is initially noted that within 37 CFR 1.47(a), two separate and distinct circumstances exist to allow an inventor(s) or applicant to proceed with the examination of an application without the signature of the inventor(s). The first is where an inventor refuses to sign an application after having been presented with the application for signature, and the second is where an inventor cannot be found or reached after diligent effort. Both situations are separate and distinct and require separate and distinct steps in order to allow a petition under 37 CFR 1.47(a) or (b) to be granted. I

In the first instance, apparently applicable here, where the whereabouts of the inventor are known, what is required is that a copy of the application be presented to the nonsigning inventor[1].

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[1] Conversely, if an inventor is unavailable (cannot be found or reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Applicant avers that the inventor cannot be reached after diligent effort on the part of the applicant. However, a review of the petition indicates that the whereabouts of the nonsigning inventor are known. Applicant provides that the letters were sent to the last known address of the nonsigning inventor, and there is no indication that the letters were returned or otherwise failed to reach the nonsigning inventor.

In this instance, what is required is that the application (specification, claims and drawings, along with the oath or declaration for signature) be presented (mailed) to the nonsigning inventor at his or her last known address, before a refusal to join the application can be alleged. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

Applicant must clarify whether the nonsigning inventor refuses to join the application or cannot be found or reached, and proceed in a manner consistent with this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Wayne Stuart Akers	:	
Application No. 11/202384	:	DECISION GRANTING
Filing or 371(c) Date: 08/10/2005	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(b)
ALGORITHMIC TRADING	:	

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" filed September 18, 2006, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has shown that the non-signing inventor, Wayne Stuart Akers, refuses to join in the application.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MR. WAYNE STUART AKERS
49 MILLERS LANE
STANSTEAD ABBOTS
HERTFORDSHIRE SG12,8AF
UNITED KINGDOM

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
Wayne Stuart Akers :
Application No. 11/202384 :
Filing or 371(c) Date: 08/10/2005 :
Title of Invention: ALGORITHMIC TRADING:

LETTER

Dear Mr. Akers:

You are named as inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As the inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Wayne Stuart Akers	:	
Application No. 11/202,384	:	DECISION GRANTING
Filing or 371(c) Date: 08/10/2005	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.181
ALGORITHMIC TRADING	:	

This is a decision on the Request to Withdraw Notice of Abandonment, filed September 18, 2006. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Decision on petition, mailed April 28, 2006. The Decision set a two (2) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on June 29, 2006. A Notice of Abandonment was mailed July 10, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Decision on petition was filed on September 18, 2006, including the requisite extension of time and fee.

A review of Office records

A review of office records reveals that a reply to the Decision on petition, including a three (3) month extension of time and fee, was filed received in this Office on September 18, 2006. A Decision granting the petition under 37 CFR 1.47(b) follows under separate cover.

Conclusion

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEND OR 97701

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Daniel et al.	:	
Application No. 11/202385	:	
Filing or 371(c) Date: 08/10/2005	:	ON PETITION
Attorney Docket Number: 6850-2	:	

This is a decision on the Petition for Revival of Application for patent Abandoned Unavoidably, filed June 18, 2007. The delay in treating this petition is regretted.

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 to File Missing Parts of Nonprovisional Application ("Notice"), mailed August 29, 2005. The Notice required the an oath or declaration, and fees to include the application filing fee; search fee; examination fee, and surcharge for late filing of the oath/declaration, totaling $565.00. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No timely and proper reply having been received, the application became abandoned on October 30, 2005. A Notice of Abandonment was mailed May 10, 2006.

The present petition

Applicant files the present petition and asserts that a response to the Notice was filed on October 28, 2005. Applicant encloses a copy of the response with the present petition. A review of the reply filed with the petition reveals that the reply includes a Transmittal Form indicating that a reply to the Notice and drawings were filed on October 28, 2005. The Transmittal Form is executed by Glen Brown, and includes a Certificate of Transmission/Mailing under 37 CFR 1.8 also executed by Glen Brown on October 28, 2005. The copy of the reply also includes page 2

of a Declaration; a copy of a check to this Office in the amount of $565.00 dated October 28, 2005; five (5) sheets of drawings, and a copy of the Notice.

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 items (**1**) and (**3**) as set forth above.

Applicable Law, Rules and MPEP

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.

Analysis

As to item (1), Applicant here asserts that a response to the Notice was filed on October 28, 2005. A review of Office records reveals that no fee in the amount of $565.00 was received in this application. Office records reveal that the only fee that was received in this Office for this application was the petition fee filed with the present petition.

Also, a review of the oath/declaration filed with the petition reveals that only page two has been filed. As such, the oath/declaration fails to comply with 37 CFR 1.63, which requires that the oath or declaration identify the application to which it is directed; state that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration; and state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

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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).

Applicant has failed to demonstrate that the Office received the fees due, or that the Office received an acceptable oath/declaration in accordance with 37 CFR 1.63.

As to item (3), Applicant has failed to demonstrate that the failure to file the fees due or an acceptable oath/declaration in accordance with 37 CFR 1.63 was unavoidable.

Conclusion

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of petition and include the necessary evidence that the fees were received (copies of bank records demonstrating that the fee was deducted from Applicant's bank account) , and that an acceptable oath/declaration in accordance with 37 CFR 1.63oath/declaration was filed.

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.

Alternate venue

Alternatively, Applicant may 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).

Applicant must also demonstrate the filing of a timely and proper reply (the continuing application).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN C. BROWN, PC
777 NW WALL STREET, SUITE 308
BEND, OR 97701

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Tara O'Keefe :
Application No. 11/202,385 : DECISION ON PETITION
Filed: August 10, 2005 :
Attorney Docket No. 6850-2 :

This is a decision on the petition under 37 CFR 1.137(b), on November 13, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks items (2) and (3).

The Office acknowledges receipt of the $155 for the filing fee, $255 for the search fee, $105 for the examination fee, a $65 surcharge for the late filing fee and a $50 bounced check fee submitted on March 3, 2008. However, finance records disclose that the $770 petition fee submitted on November 13, 2007, was returned to petitioner for insufficient funds. Therefore, petitioner must submit the current petition fee of $770 before treatment of the instant petition can occur.

Further, it is noted that the instant petition is unsigned. Unfortunately, the petition and statement of unintentional delay cannot be accepted. 37 CFR 1.33(b) states:

> Amendments and other papers filed in the application must be signed by:
>
> (1) An attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

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 35 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Tara O'Keefe	:	
Application No. 11/202,385	:	ON PETITION
Filed: August 10, 2005	:	
Attorney Docket No. 113322-159363	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on May 12, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $155 for the filing fee, $255 for the search fee, a $65 surcharge for the late filing, $50 for the bounced check fee, and $105 for the examination fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WILLARD BREWER JR.
9402 CHAMBERLAIN LANE
DAPHNE AL 36526

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Brewer, Willard Jr.	:	
Application No. 11/202,395	:	ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 3746	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 8, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the 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 3746 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DEC 06 2006

CENTRAL REEXAMINATION UNIT

Michael H. Minns
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Akron, Ohio 44311-1076

In re Application of James W. Forbes et al. Application No. 11/202,397 Filed: August 11, 2005 Attorney Docket No. 200405.00085	: : : : :	DECISION DISMISSING PETITION UNDER 37 CFR §1.183

This is a decision on the October 30, 2006 "Petition Under 37 CFR 1.183" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application and waiver of the 37 CFR 1.173(a)(1) requirement that a specification be furnished in the form of a copy of a printed patent, in double column format.

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is **dismissed.**

BACKGROUND

1. U.S. Patent No. 6,659,017 to James W. Forbes et al. (the '017 patent) issued on December 9, 2003.

2. On August 10, 2004, a certificate of correction to the '017 patent was issued.

3. On August 11, 2005, Petitioner filed the present application for reissue of the '017 patent, and it was assigned serial number 11/202,397 (the '397 application). The application, as filed, was submitted in double column format, but it did not incorporate the addition of a priority claim that that had become part of the '017 patent by means of the August 10, 2004 certificate of correction.

4. The examiner determined that, as a result of applicant not inserting the changes made by the certificate of correction into the application pursuant to MPEP 1411.01, the application as filed did not conform with 37 CFR 1.173(a)(1). In an interview on October 17, 2006, the examiner informed applicant of this defect and required corrective action.

5. To address the examiner's concern applicant filed, on October 30, 2006, the instant petition requesting waiver of rules 37 CFR 1.125(d) and 1.173(a)(1) to permit entry of a substitute specification which accompanies the petition.

DECISION

37 CFR 1.183 provides that "in an extraordinary situation, where justice requires" a regulation may be waived. An extraordinary situation is not present where there is an avenue for relief that does not necessitate waiver of any rules. See *Cantello v. Rasmussen*, 220 USPQ 664 (Comr. 1982) for the principle that extraordinary relief will not normally be considered, if the rules provide an avenue for obtaining the relief sought.

In this instance, applicant can accomplish the desired result – the entry of an amendment placing the application in proper format – within the ordinary procedures set out by the Office. This may be accomplished by providing replacement paragraphs incorporating the material in the certificate of correction to be entered without the use of underlining and bracketing in the replacement paragraph, since the text of the issued certificate of correction is the text of the patent.

In MPEP 1411.01, it is stated:

> If the changes are extensive and/or applicant has submitted them improperly with underlining and brackets, a clean copy of the specification with the Certificate of Correction changes in it may be requested by the examiner. In order for the clean copy to be entered as a substitute specification, the reissue applicant must file a grantable petition under 37 CFR 1.183 for waiver of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1). The examiner' s request for the clean copy will generally serve as sufficient basis for granting the petition.

In this instance there is no showing in the petition that the changes were "extensive and/or applicant has submitted them improperly with underlining and brackets," such that the examiner requested a clean copy.

In particular, applicant may submit an amendment, which directs the Office to replace the appropriate paragraphs in order to conform the application to the patent including the changes of certificate of correction. Thus, applicant can direct the Office, as stated in the Certificate of Correction to:

Cover Page left column, Insert –(62) **Related U.S. Application Data,** Continuation in Part of 09/705,056, filed November2, 2000, now abandoned.--

Column 1, Line 3, insert -- this application is a continuation-in-part of application Serial No. 09/705,056, filed November 2, 2000, now abandoned. --

In view of the above discussion, waiver of the rules is inappropriate in this instance. Therefore, the petition is **dismissed**.

CONCLUSION

1. The petition under 37 CFR 1.183 to waive, for the instant application, the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is **dismissed**.

2. Jurisdiction over the reissue application file is being returned to Group 3600.

3. Telephone inquiries with regard to this decision should be directed to Joseph F. Weiss, Jr., Office of Patent Legal Administration, at (571) 272-7759.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

11-29-06

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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Shmuel Shaffer	: DECISION ON REQUEST FOR
Patent Number	: 7633914	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,403	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **414** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PATTON BOGGS LLP
2001 ROSS AVENUE
SUITE 3000
DALLAS TX 75201

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SEP 26 2008

In re Application of	:	
Mark A. Barry	:	
Application No. 11/202,409	:	ON PETITION
Filed: August 10, 2005	:	

This is a decision on the "Petition to Revive Unavoidably, or in the alternative Unintentionally Abandoned Utility Patent Application", filed September 10, 2008, which is being treated as a petition to revive under 37 CFR 1.137(b), in light of the fact that petitioner did not pay the petition fee for consideration of the petition under 37 CFR 1.137(a).[1]

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 23, 2008. This Office action set an extendable period

[1] 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")

for reply of three (3) months. No reply having been received, the application became abandoned on April 24, 2008. A Notice of Abandonment was mailed on August 6, 2008.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 3733 for consideration of the Amendment filed September 10, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Sunbeam Products Inc
2381 NW Executive Center Drive
Boca Raton FL 33431

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Alexandria, VA 22313-1450
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OIPE IAP10
OCT 14 2008
PATENT & TRADEMARK OFFICE

Joanne,
We were "cc'd" on this application.
Do we do anything?

PATTON BOGGS LLP
2001 ROSS AVENUE
SUITE 3000
DALLAS TX 75201

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SEP 26 2008

In re Application of Mark A. Barry Application No. 11/202,409 Filed: August 10, 2005	: : : :	ON PETITION

This is a decision on the "Petition to Revive Unavoidably, or in the alternative Unintentionally Abandoned Utility Patent Application", filed September 10, 2008, which is being treated as a petition to revive under 37 CFR 1.137(b), in light of the fact that petitioner did not pay the petition fee for consideration of the petition under 37 CFR 1.137(a).[1]

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 23, 2008. This Office action set an extendable period

[1] 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")

for reply of three (3) months. No reply having been received, the application became abandoned on April 24, 2008. A Notice of Abandonment was mailed on August 6, 2008.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 3733 for consideration of the Amendment filed September 10, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Sunbeam Products Inc
2381 NW Executive Center Drive
Boca Raton FL 33431

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DIRECTED ELECTRONICS, INC.
1 VIPER WAY
VISTA, CA 92061

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FEB 18 2010

In re Application of
Timothy Gladwin, et al.
Application No. 11/202,436
Filed: August 11, 2005
Attorney Docket No.: DEI-019-UTL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 8, 2009.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed August 31, 2009. On December 8, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on December 17, 2009.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of J. Andrew McKinney, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. . If Mr. McKinney 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. McKinney, 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: J. ANDREW MCKINNEY, JR.
P.O. BOX 1290
MILLERSVILLE, MD 21108

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOUIS M. HEIDELBERGER
REED SMITH
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Jaime Salm	:	
Application No. 11/202,450	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 05-40149-US(885037.2001	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR § 1.102(d), filed May 3, 2006 and May 16, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1731 for action on the merits commensurate with decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

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APR 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Jack A. Syage	:	
Application No. 11/202,455	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 155692-0047 (P010)	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed January 30, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The disclosure on its face provides sufficient evidence that the invention materially contributes to countering terrorism. 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 2856 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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COOLEY GODWARD LLP
ATTN: PATENT GROUP
ONE FREEDOM SQUARE, RESTON TOWN CENTER
11951 FREEDOM DRIVE
RESTON, VA 20190-5656

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Odell et al.	:	DECISION ON PETITION
Application No. 11/202,458	:	TO MAKE SPECIAL
Filed: August 12, 2005	:	37 CFR1.102(D)
Attorney Docket No. ENCS-004/03US	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on January 6, 2006, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

Advanced prosecution under Section X is a commitment by the Office to devote extra resources to expedite the examination of inventions related to promising technology, and is reserved for inventions that directly contribute to the diagnosis, treatment, or prevention of HIV/AIDS or cancer. Inventions having only a tangential relationship to the HIV/AIDS or cancer will not, in order to preserve the limited resources of the Office, be treated as special.

The instant petition does not meet item (2). Neither the claims nor the specification of the instant application mention the phrases "HIV/AIDS" or "cancer." Nor is the invention focused on improvements for only those areas. Rather, the invention is directed towards improvements in electrosurgical techniques. The invention is not, therefore, considered to be in the specific fields of HIV/AIDS or cancer. Although improvements in electrosurgical techniques may provide a benefit to diagnoses of many diseases, any relation to specific advances in the fields of HIV/AIDS and cancer is considered to be tangential rather than a direct or material results of the invention.

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 Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3739 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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ATTN: PATENT GROUP
ONE FREEDOM SQUARE
RESTON TOWN CENTER
11951 FREEDOM DRIVE
RESTON VA 20190-5656

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Roger C. Odell, et al	:	
Application No. 11/202,458	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. ENCS-004/03US	:	FROM RECORD
	:	

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 6, 2007 and the revised petition of February 8, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Cooley Godward LLP has been revoked by the assignee of the patent application on February 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: NEUGEBOREN LAW FIRM, PC
1035 PEARL STREET
SUITE 400
BOULDER, CO 80302

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
11/202,458	08/12/2005	Roger C. Odell	ENCS.004.03US

CONFIRMATION NO. 7095

OC000000023025760

61529
NEUGEBOREN LAW FIRM, LLC
2854 11TH STREET
BOULDER, CO 80304

Date Mailed: 03/21/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,458	08/12/2005	Roger C. Odell	ENCS-004/03US

CONFIRMATION NO. 7095

OC000000023025667

COOLEY GODWARD LLP
ATTN: Patent Group
One Freedom Square, Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5656

Date Mailed: 03/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-4-07

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 7166898 (11/202461 p2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should Ly must be entered?

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Kenneth Parker — SPE

2815 — Art Unit

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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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

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NOV 04 2005

OFFICE OF PETITIONS

In re Application of	:	
John Duerr et al	:	
Application No. 11/202,466	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 956-122US1 (199324)	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 19, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The declaration submitted with the petition includes a statement from Inventor B. William Cooper stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2856 for action on the merits commensurate with this decision.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,419,853	:	
Kuhmann et al.	:	DECISION ON
Issue Date: September 2, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 11/202,478	:	OF
Filed: August 11, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 14069/027001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed November 3, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred thirteen (213) days to two hundred thirty-five (235) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 2, 2008, the above-identified application matured into US Patent No. 7,419,853 with a patent term adjustment of 213 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR § 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 22 days and the period of adjustment due to examination delay, pursuant to 37 CFR § 1.702(a), of 272 days do not overlap as these periods do not occur on the same day.

The 22-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 11, 2005, and the patent having been issued on September 2, 2008, three years and 22 days later. Patentees assert that in addition to this 22-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR § 1.702(a) of 272 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 § 1.702(a)(1). A Restriction Requirement was mailed on July 10, 2007, 14 months and 272 days after the application was filed on August 11, 2005.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 59 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 (22 days) and the period of Examination Delay (272 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 294 days, which is the sum of the period of Three Year Delay (22 days) and the period of Examination Delay (272 days), reduced by the period of overlap (0 days). As such, Patentees assert entitlement to a patent term adjustment of 235 days (22 + 272 reduced by 0 overlap - 59 (applicant delay)).

The Office agrees that as of the issuance of the patent on September 2, 2008, the application was pending three years and 22 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 272 days is correct. At issue is whether Patentees should accrue 22 days of patent term adjustment for the Office taking in excess of

three years to issue the patent, as well as 272 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 22 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, 37 CFR § 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to

> the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by

section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718.[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. It is incorrect to treat the relevant period as starting on August 11, 2008, the date that is three years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 11, 2005, to the date the patent issued on September 2, 2008. Prior to the issuance of the patent, 272 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 22 days for Office delay in issuing the patent overlap with the 272 days of Office delay. During that time, the issuance of the patent was delayed by 272 days, not 272 + 22 days. The Office took 14 months and 272 days to issue a first Office action. Otherwise, the Office took all actions set forth

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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).

in 37 CFR § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 272 days of Office delay and the 59 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 22 days. The Office did not delay 272 days and then an additional 22 days. Accordingly, 272 days of patent term adjustment (not 272 and 22 days) was properly entered because the period of delay of 22 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 272 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 272 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 22 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Receipt of the $200.00 fee set forth in 37 CFR § 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK, LLP
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Belgacem Haba	:	
Application No. 11/202,498	:	DECISION ON PETITION
Filed: August 12, 2005	:	
Attorney Docket No. TESSERA 3.0-424	:	

This is a decision on the petition under 37 CFR 1.181(a), filed August 22, 2006, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of February 2, 2006, which set a three (3) month shortened statutory period for reply. A reply was due on or before May 2, 2006 or August 2, 2006, with extensions of time obtained under the provisions of 37 CFR 1.136(a).

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 3, 2006 of an amendment (24 pages), amendment transmittal page (1 page), petition for extension of time (1 page), charge $1,020.00 to Deposit Account No. 12-1095, Letter to Official Draftsman (1 page), and Drawing of Figures 2A-9 (5 sheets). A copy of the previously submitted reply accompanies the petition, bearing a certificate of mailing date of July 31, 2006.

The correspondence acknowledged as having been received in the USPTO on August 3, 2006 is of record in the application file. Accordingly, as a reply to the non-final Office action of February 2, 2006 was timely mailed via certificate of mailing on July 31, 2006 and received in the USPTO on August 3, 2006, the holding of abandonment was improper.

Accordingly, the holding of abandonment is hereby **withdrawn** and the Notice of Abandonment mailed on August 8, 2006 **vacated**. This application is hereby restored to pending status.

The $1,020 extension of time fee assessed to petitioner's deposit account on August 22, 2006 was unnecessary since this fee was previously and timely paid on August 3, 2006. Accordingly, the $1,020 extension of time fee will be refunded to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 2829 for appropriate action in the normal course of business on the reply received August 3, 2006.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

JLB CONSULTING, INC.
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

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APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Mahoney et al.	:	DECISION ON PETITION
Application No. 11/202,508	:	
Filed: August 12, 2005	:	
Atty Docket No. J112U006US00	:	

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 February 12, 2007.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a foreign or international application filed on January 6, 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 Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of August 2, 2007 accompanies this decision on petition.

The application will be examined in Technology Center AU 2165 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Petitions Attorney
Office of Petitions

Attachment: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/202,508	08/12/2005	John J. Mahoney	J112U006US00

CONFIRMATION NO. 7590

33893
JLB CONSULTING, INC.
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Date Mailed: 04/24/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/02/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

PTO/SB/83 (01-06)
Approved for use through 12/31/2008 OMB 0651-0035
U S Patent and Trademark Office, U S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/202,511
Filing Date	August 11, 2005
First Named Inventor	Rick B Spielman
Art Unit	1724
Examiner Name	
Attorney Docket Number	31970-Util

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 6-12-07
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 005179

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are Possible conflict of interest

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Link Summers		
Address	P.O. Drawer P		
City	Taos	State NM	Zip 87571
Country	US		
Telephone		Email	
Signature			
Name	Jeffrey D Myers	Registration No	35,964
Date	6-7-2007	Telephone No.	505 998 1502

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1 36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1 11 and 1 14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U S Department of Commerce, P O Box 1450, Alexandria, VA 22313-1450 DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of BRENNAN et al.

Application No.: 11/202532 Examiner:

Date Filed: August 12, 2005 Group: 1762

For: SURFACE TOPOGRAPHY FOR NON-TOXIC BIOADHESION CONTROL

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §1.102 and MPEP 708.02, paragraph IV, Applicants hereby petition to make special for an advancement of examination the above-described United States Patent Application which is filed along with this petition. Pursuant to 37 C.F.R. §1.102(c) no statutory fee is required for this Petition. However, the Commissioner is hereby authorized to charge any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing, or during prosecution of this application to Deposit Account No. 50-0951.

In accordance with the provisions of 37 CFR §1.102(c) and MPEP 708.02, paragraph IV, entitled "APPLICANTS AGE" Applicants respectfully request advancement of examination for the above-described United States Patent Application which is filed along with this petition. One of the named inventors, Inventor Dr. Ronald H. Baney, was born on November 26, 1932. Accordingly, the age of Applicant Dr. Ronald H. Baney is currently 72, which fulfills the statutory requirement under 37 CFR §1.102(c) for an applicant to be 65 years of age or older.

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 SEP 2 6 2005

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CHICAGO IL 60603-3406

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MAR 2 6 2010

OFFICE OF PETITIONS

In re Patent No. 7,664,090	:	
Issue Date: February 16, 2010	:	
Application No. 11/202,535	:	NOTICE
Filed: August 11, 2005	:	
Attorney Docket No. 9010/96607 (04-0109)	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 11, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
Suite 1000
555 California Street
San Francisco CA 94104-1513

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Paukshto and Yeh	:	DECISION ACCORDING STATUS
Application No. 11/202,536	:	UNDER 37 CFR 1.47(a)
Filed: August 11, 2005	:	
Attorney Docket No. 34832/US/3	:	
For: Retardation Films For The Elimination Of	:	
Leakage Of Light Through Cross Polarizers In	:	
LCD	:	

This is in response to the petition under 37 CFR 1.47(a), filed on January 10, 2006 (certificate of mailing dated January 3, 2006). Applicant obtained an extension of time for filing a response within the second month. Accordingly, the petition is filed timely.

Applicant showed that Pochi Yeh, the non-signing inventor, constructively refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of Tianjun Hou established that applicant mailed the application papers to the last known address of the non-signing inventor; however, the inventor did not respond to the request to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). Accordingly, the petition is **granted**. This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The current fee for filing a petition under 37 CFR 1.47(a) is $200.00. Therefore, the Office has charged the difference to applicant's Deposit Account, as authorized.

The matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Pochi Yeh
405 Camino De Celeste
Thousand Oaks, California 91360

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OFFICE OF PETITIONS

In re Application of	:	
Paukshto and Yeh	:	
Application No. 11/202,536	:	LETTER
Filed: August 11, 2005	:	
Attorney Docket No. 34832/US/3	:	
For: Retardation Films For The Elimination Of	:	
Leakage Of Light Through Cross Polarizers In	:	
LCD	:	

Dear Mr. Yeh:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Dorsey & Whitney LLP
Suite 1000, 555 California Street
San Francisco CA 94104-1513

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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
11/202,549	08/12/2005	2161	1200	20041541-US-NP XERZ 2 010	3	24	3

CONFIRMATION NO. 7586

CORRECTED FILING RECEIPT

OC000000017030790

Patrick R. Roche, Esq.
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND, OH 44114-2579

Date Mailed: 09/16/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Caroline Brun, Grenoble, FRANCE;

Assignment For Published Patent Application

XEROX CORPORATION

Power of Attorney: The patent practitioners associated with Customer Number **027885**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/202,549

Projected Publication Date: 02/15/2007

Non-Publication Request: No

Early Publication Request: No

Title

Document anonymization apparatus and method

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).

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MINNEAPOLIS, MN 55440-1022

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of :
Yongzheng Hui et al :
Application No. 11/202,550 :
Filed: August 11, 2005 :
Attorney Docket No. 19413-002001 / EC:CNC: 135 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 14, 2005, to change the order of inventorship.

The petition is **granted.**

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Ping F. Hwung
Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

Attachment: Corrected Filing Receipt

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: Fatih Ozluturk	: DECISION ON REQUEST FOR
Patent Number	: 7599668	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/202,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1029** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SQUIRE, SANDERS & DEMPSEY L.L.P
600 HANSEN WAY
PALO ALTO CA 94304-1043

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Kato	:	
Application No. 11/202,577	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 63574.00010	:	FROM RECORD
	:	

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, 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 Aaron Wininger on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Syunji Kato at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

David Bucci
Petitions Examiner
Office of Petitions

cc: Syunji Kato
34-6 Mejirodai 3-chrome, Hachiohji-shi
Toyoko 193-0833,
Japan

cc: Jordan C. Powell
Powell & Associates
243 N. Bald Mountain Drive
Alpine, Utah 84004

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,577	08/11/2005	Syunji Kato	63574.00010

CONFIRMATION NO. 6618

OC000000020056207

OC000000020056207

30256
SQUIRE, SANDERS & DEMPSEY L.L.P
600 HANSEN WAY
PALO ALTO, CA 94304-1043

Date Mailed: 08/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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WASHINGTON, DC 20036

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Alan R. Johnston and	:	
Heinrich Sinnreich	:	
Application No. 11/202,589	:	DECISION GRANTING
Filed: August 12, 2005	:	STATUS UNDER
Attorney Docket No.	:	37 CFR 1.47(b)
ASH04002	:	

This is in response to the Petition Under 37 CFR §1.47(b) and Response to Notice to File Missing Parts, filed via facsimile on November 29, 2005, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventors, Alan R. Johnston and Heinrich Sinnreich, refuse to join in the application.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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COOLEY GODWARD LLP
ATTNENTION: PATENT GROUP
ONE FREEDOM SQUARE – RESTON TOWN CENTER
11951 FREEDOM DRIVE
RESTON, VA 20190-5601

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Roger C. Odell et al	:	
Application No. 11/202,605	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ENCS-004/01US	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on January 6, 2006 to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a statement explaining how several embodiments of the invention contribute to the treatment and diagnosis of cancer by providing one or more of safer cancer removal, diagnostic methodologies, and devices. Petitioner states "embodiments of the present invention include electrosurgical devices and methods that are beneficial when removing cancerous growths from patients. As a particular example, many embodiments of the claimed invention may be utilized in connection with polypectomy procedures, which often times include the removal of cancerous uterine and/or cancerous cervical polyps." 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 3764 for action on the merits commensurate with this decision.

Irvin Dingle for

David Bucci
Petitions Examiner
Office of Petitions

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 - 19TH STREET, NW
WASHINGTON DC 20036-2402

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
ODELL, Roger C. et al.	:	
Application No. 11/202,605	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. **ENCS-004/01US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 06, 2007 and re-submitted February 08, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to COOLEY GODWARD KRONISH LLP has been revoked by the Assignee of the patent application on February 07, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NEUGEBOREN LAW FIRM PC**
1035 PEARL STREET
SUITE 400
BOULDER, CO 80302

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re Application of
Sato
Application No. 11/202,615
Deposited: August 12, 2005
Attorney Docket No. 1232-4957US1
For: WAVEFRONT SPLITTING ELEMENT FOR EUV LIGHT AND PHASE MEASURING APPARATUS USING THE SAME

DECISION GRANTING PETITION

This is a decision on the petition, filed October 28, 2005, requesting, in effect, partial withdrawal of the August 30, 2005 Notice of Incomplete Nonprovisional Application, insofar as it alleges that the above-identified application was deposited without drawings. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on August 12, 2005. On August 30, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioner, *inter alia*, that no filing date had been accorded to the application papers deposited on August 12, 2005 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of August 12, 2005 on the basis that 2 sheets of formal drawings were received in the Patent and Trademark Office (PTO) on August 12, 2005. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 12, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 2 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 2 sheets of formal drawings were filed on August 12, 2005. MPEP 503. Accordingly, the request is granted. It is unnecessary to address petitioner's incorporation by reference argument.

Pursuant to petitioner's authorization, deposit account no. 13-4500 will be credited the $400.00 charged to the same deposit account on November 1, 2005.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 12, 2005**, using the copy of the 2 sheets of formal drawings submitted with the instant petition. Office records will be corrected to show that 2 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Andy L. Lee	: DECISION ON REQUEST FOR
Patent Number	: 7584447	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **647** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS, TX 75202-3797

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OFFICE OF PETITIONS

In re Application of

Eugeny Lukhtanov et al
Application No. 11/202,635
Filed: August 12, 2005
Attorney Docket No. 17682A-008810US

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 October 2, 2009.

The request is **APPROVED**.

A review of the file record indicates that William B. Kezer: (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, William B. Kezer has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: William B. Kezer
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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SNELL & WILMER L.L.P.
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004

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OFFICE OF PETITIONS

In re Application of	:	
Beck, Jason R.	:	
Application No. 11/202,637	:	DECISION ON PETITION
Filed: August 11, 2005	:	
Attorney Docket No. 52536.0002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3765 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: Dong Yol Yang	: DECISION ON REQUEST FOR
Patent Number	: 7600547	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,639	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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FEB 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Bae et al.	:	DECISION REFUSING STATUS
Application No.11/202,647	:	UNDER 37 CFR 1.47(a)
Filed: August 12, 2005	:	
Attorney Docket No. ASH 05 007	:	
	:	
	:	

This is in response to the petition under 37 CFR § 1.47(a), filed February 7, 2006 .

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on August 12, 2005, without an executed oath or declaration. Accordingly, on October 7, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of December 7, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a one (1) month extension of time was also submitted. However, petitioner requires a two month extension of time. Accordingly, deposit account 13-2491 will be charged an additional $330.00 towards the $450.00 extension of time fee.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to item (1), Where an inventor cannot be located/reached as in the case of inventor Johnston, rule 47 applicant must demonstrate diligent effort was made to find or reach the non-signing inventors. See MPEP 409.03(d). The statements made in the petition do not illustrate sufficient "diligent effort" was made to locate the non-signing inventor. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in a statement of facts. A brief internet search has yielded a Alan B. Johnston formerly of 2008 Rutger Street, at 3 Whitfield Land, Saint Louis, Mo. 63124-1838 who may be the inventor involved with the above-identified application. If Alan B. Johnston is the inventor for this application, rule 47 applicant is required to send a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

As to item (2) the declaration executed by the signing inventors contains non-initialed alterations to the declaration (the crossing out of Shinnreich). A newly executed declaration without alterations 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 facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCI, INC.
Technology Law Department
1133 19th Street, N.W.
Washington DC 20036

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OFFICE OF PETITIONS

In re Application of
Bae et al. :
Application No. 11/202,647 :
Filed: August 12, 2005 : DECISION
Attorney Docket Number: ASH 05 007 :
Title: Method and System For Providing :
Interdomain Traversal In Support of Packetized:
Voice Transmissions

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 15, 2006.

In view of the fully executed declaration submitted on May 15, 2006 , further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **Dismissed As Moot** . This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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FEB 21 2006

OFFICE OF PETITIONS

MCI, INC.
Technology Law Department
1133 19th Street, N.W.
Washington, DC 20036

In re Application of :
Alt, Borgstrom, Bae, and Johnston :
Application No.: 11/202,659 : DECISION ACCORDING
Filed: August 12, 2005 : RULE 47(a) STATUS
Attorney Docket No:ASH 05 008 :
For: **METHOD AND SYSTEM FOR PROVIDING VOICE OVER IP MANAGED SERVICES UTILIZING A CENTRALIZED DATA STORE**

This is in response to the petition under 37 CFR 1.47(a), filed February 7, 2006.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on August 12, 2005, without a properly executed declaration. On October 7, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration and payment of a surcharge, payment of the filing fee and additional claim fees. The instant petition was filed responsively on February 7, 2006, with a request for an extension of time within the first month.

Petitioner is advised that an extension of time within the second month is necessary in order to make the subject timely. Deposit account 13-2491 will be charged an additional $330.00 to for the extension of time within the second month.

Petitioner has shown that inventor Johnston cannot be located to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

A corrected filing receipt is enclosed documenting removal of Mr. Sinnreich as a joint inventor for the subject application.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/202,659	08/12/2005	2661	1130	ASH 05 008	21	30	4

CONFIRMATION NO. 6552

CORRECTED FILING RECEIPT

OC000000018097517

MCI, INC.
Technology Law Department
1133 19th Street, N.W.
Washington, DC 20036

Date Mailed: 02/21/2006

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)

Wade R. Alt, Residence Not Provided;
Evan Borgstrom, Residence Not Provided;
Kiwan E. Bae, Residence Not Provided;
Alan B. Johnston, Residence Not Provided;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/601,256 08/13/2004
and claims benefit of 60/606,605 09/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 02/18/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/202,659

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for providing voice over IP managed services utilizing a centralized data store

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
Kothari, et al. :
Application No.: 11/202,664 : ON PETITION
Filing Date: August 12, 2005 :
Attorney Docket No.14917.165US01 :

This is a decision on the petition under 37 CFR 1.47, filed July 14, 2008. The petition will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67.

The petition is **granted**.

Petitioner requests that the supplemental declaration be accepted without the signature of inventor Lin, as inventor Lin is refusing to sign the supplemental declaration. It is noted, that in this case, 37 CFR 1.67 requires that the supplemental declaration be signed by all named inventors, yet petitioner has demonstrated that inventor Lin is refusing to do so. In such a case, Section 603 of the *Manual of Patent Examining Procedure* (MPEP) provides that:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 so as to accept the supplemental declaration filed January 23, 2006, without the signature of inventor Lin. The petition is granted; the requirement of 37 CFR 1.67 that all named inventors execute the supplemental declaration is waived as to inventor Lin, and the supplemental declaration without the signature of inventor Lin is acknowledged and made of record.

The fee for the instant petition is $400.00. Deposit account 13-2725 will be charged an additional $270.00 accordingly.

The application file will be forwarded to Technology Center 2100, GAU 2176 for treatment of the petition under 37 CFR 1.48 filed July 14, 2008, for further processing.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN P. HALVONIK
SUITE 202
15200 SHADY GROVE RD
ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Application of	:	
Sylvester Palko	:	
Application No. 11/202,668	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John P. Halvonik, the sole attorney of record. John P. Halvonik has 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: SYLVESTER PALKO
161 OBRINGER LANE
SARVER, PA 16055

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,668	08/15/2005	Sylvester Palko	

CONFIRMATION NO. 6935

OC000000023061944

John P. Halvonik
Ste. 202
15200 Shady Grove Rd.
Rockville, MD 20850

Date Mailed: 03/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Sylvester Palko
161 Obringer Lane
Sarver, PA 16055

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OFFICE OF PETITIONS

In re Application of	:	
Sylvester Palko	:	
Application No. 11/202,668	:	DECISION ON PETITION
Filed: August 15, 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 April 11, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a signed declaration by the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3684 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Boston Scientific Corporation
c/o Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Paul W. Rehrig	: DECISION ON REQUEST FOR
Patent Number	: 7622853	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,674	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **935** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

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In re Application of	:	
TELKAMP et al	:	
Application No.: 11/202,675	:	DECISION ON PETITION
Filing Date: August 12, 2005	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 16131.4008	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2006, 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 3, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on May 4, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

With further regard to the statement of unintentional delay, the petition states, "The failure to pay the issue fee and publication fee was unintentional on Applicant's part." This statement is interpreted as 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 under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Jen Chieh Chang	: DECISION ON REQUEST FOR
Patent Number	: 7592240	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **737** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 13 2010

OFFICE OF PETITIONS

ANTHONY J SERVENTI
COBASYS LLC
3740 LAPEER ROAD SOUTH
ORION MI 48359

In re Application of	:	
Satish Anantharaman	:	
Application No. 11/202,719	:	ON PETITION
Filed: August 12, 2005	:	
Attorney Docket No. 00501	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 9, 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 Office action mailed April 2, 2009. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on May 3, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.

The application is being forwarded to Group Art Unit 1795 for consideration of the Election, filed November 9, 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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2850 SW Fairmount Blvd.
Portland, OR 97201

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OFFICE OF PETITIONS

In re Application of	:	
Jan Trabandt	:	
Application No. 11/202,721	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. SL-1C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **no longer representing applicant**, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Global Communication Services
4110 N. Scottsdale Road, Suite 165
Scottsdale, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Daniel J. Noblitt
Noblitt & Gilmore, LLC
Suite 6000
4800 North Scottsdale Road
Scottsdale AZ 85251

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SEP 26 2007
OFFICE OF PETITIONS

In re Application of :
Trabandt, et al. : DECISION ON PETITION
Application No. 11/202,721 :
Filed: August 12, 2005 :
Atty. Dkt. No.: 10022.0200 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed September 10, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned April 5, 2007 for failure to timely submit a proper reply to the non-final Office action mailed January 4, 2007. The non-final Office set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed July 30, 2007.

The petition fails to comply with 37 CFR 1.4(d) and 1.33(b) in that the petition is not signed and does not identify petitioner(s). The petition and supporting documentation received totaled five pages. The petition itself indicates that it is a total of three pages long. Two pages of petition were received. The electronic acknowledgement indicates that a total of five pages were actually submitted. Perhaps the third page of the petition was inadvertently omitted. Correction is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

Daniel J. Noblitt
Noblitt & Gilmore, LLC
Suite 6000
4800 North Scottsdale Road
Scottsdale AZ 85251

In re Application of	:
Trabandt, et al.	: DECISION ON PETITION
Application No. 11/202,721	:
Filed: August 12, 2005	:
Atty. Dkt. No.: 10022.0200	:

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed October 3, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned April 5, 2007 for failure to timely submit a proper reply to the non-final Office action mailed January 4, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed July 30, 2007.

Petitioners argue non-receipt of the Office action mailed January 4, 2007.

A review of the record reveals that the non-final Office action mailed January 4, 2007 was returned to the USPTO as undeliverable on January 19, 2007. There is no indication in the record that effort was made to re-mail the Office action in accordance with MPEP 707.13 wherein it states:

> "Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to the correct correspondence address,

> it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924)."

Therefore, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Technology Center 2600 for re-mailing of the Office action. The time period for reply will be set by the newly mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL HETHERINGTON
P.O. BOX 61047
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
R. Thomas Grotz	:	
Application No. 11/202,725	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. RTG-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 July 24, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael Hetherington on behalf of all attorneys of record who are associated with customer No. 36743.

All attorneys/agents associated with the Customer Number 36743 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: R. THOMAS GROTZ, M.D.
1700 CALIFORNIA STREET
SUITE 520
SAN FRANCISCO, CA 94109

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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
GROTZ, R. Thomas	:	
Application No. 11/202,725	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. **INNVP-00100**	:	FROM RECORD
	:	

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 27, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **GLENN PATENT GROUP** has been revoked by the applicant 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.

MGraves

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EDWARD J. LYNCH**
ONE EMBARCADERO CENTER, SUITE 562
SAN FRANCISCO, CA 944111

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APR 20 2010

OFFICE OF PETITIONS

DOWNS RACHLIN MARTIN PLLC
199 MAIN STREET
P O BOX 190
BURLINGTON VT 05402-0190

In re Application of
R. Thomas Grotz
Application No. 11/202,725
Filed: August 12, 2005
Attorney Docket No. **13155-004USU1**

: DECISION GRANTING PETITION

This is a decision on the petition, filed February 25, 2010, under 37 CFR 1.137(b) and 37 CFR 1.137(f), to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on August 11, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the

due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is July 22, 2010 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $810.00 has been applied to the finance records for this application.

This matter is being referred to the Publishing Division.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

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
11/202,725	08/12/2005	R. Thomas Grotz	13155-004USU1

CONFIRMATION NO. 8353

21918
DOWNS RACHLIN MARTIN PLLC
199 MAIN STREET
P O BOX 190
BURLINGTON, VT 05402-0190

NONPUBLICATION RESCISSION LETTER

OC000000041152716

Date Mailed: 04/16/2010

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 07/22/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/pffaison ball/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OCT 09 2009

OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of	:	
Green et al.	:	
Application No. 11/202,731	:	ON APPLICATION FOR
Filed: August 12, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 72244-AA/JPW/GJG	:	

This is in response to the PETITION TO CORRECT PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE, filed July 9, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least six hundred fifty-one (651) days, not three hundred twenty-three (323) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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APR 29 2010

OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK NY 10112

In re Patent No. 7,619,105	:	DECISION ON REQUEST FOR
Green et al.	:	RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/202,731	:	AND
Filed: August 12, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 72244-AA/JPW/GJG	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred eighty-two (782) 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 eighty-two (782) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred eighty-two (782) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,619,105 B2

DATED : Nov. 17, 2009 **DRAFT**

INVENTOR(S) : Green 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 425 days

Delete the phrase "by 425 days" and insert – by 782 days--

Day : Wednesday

PALM INTRANET

Date: 4/28/2010
Time: 11:56:20

PTA Calculations for Application: 11/202731			
Application Filing Date:	08/12/2005	PTO Delay (PTO):	462
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	37
Post-Issue Petitions:	0	Total PTA (days):	782
PTO Delay Adjustment:	357		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	04/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	357		
58.5	10/28/2009	PTA 36 MONTHS	97		
58	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	8		50
57	10/16/2009	EXPORT TO FINAL DATA CAPTURE			
56	10/15/2009	DISPATCH TO FDC			
55	10/09/2009	MAIL-PETITION DECISION - DISMISSED			
54	10/09/2009	PETITION DECISION - DISMISSED			
53	07/09/2009	PETITION ENTERED			
52	07/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
51	07/06/2009	FINISHED INITIAL DATA CAPTURE			
50	07/09/2009	ISSUE FEE PAYMENT VERIFIED		3	46
49	07/09/2009	ISSUE FEE PAYMENT RECEIVED			
48	04/21/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
47	04/07/2009	EXPORT TO INITIAL DATA CAPTURE			
46	04/06/2009	MAIL NOTICE OF ALLOWANCE			
45	04/03/2009	ISSUE REVISION COMPLETED			
44	04/03/2009	DOCUMENT VERIFICATION			
43	04/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	04/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
41	04/03/2009	NOTICE OF ALLOWABILITY			
37	01/15/2009	DATE FORWARDED TO EXAMINER			
36	12/08/2008	RESPONSE AFTER NON-FINAL ACTION			
35	10/07/2008	MAIL NON-FINAL REJECTION			
34	10/01/2008	NON-FINAL REJECTION			

33	08/08/2008	DATE FORWARDED TO EXAMINER			
32	07/28/2008	AMENDMENT AFTER FINAL REJECTION			
31	05/28/2008	MAIL FINAL REJECTION (PTOL - 326)			
30	05/27/2008	FINAL REJECTION			
28	02/07/2008	MISCELLANEOUS INCOMING LETTER			
27	03/18/2008	DATE FORWARDED TO EXAMINER			
26	02/07/2008	RESPONSE AFTER NON-FINAL ACTION		34	24
25	02/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	10/04/2007	MAIL NON-FINAL REJECTION	357		-1
23	10/01/2007	NON-FINAL REJECTION			
22	08/12/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	09/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	12/09/2005	REQUEST FOR REFUND			
16	01/05/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	08/12/2005	REFERENCE CAPTURE ON IDS			
14.7	08/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	08/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/12/2005	PRELIMINARY AMENDMENT			
12	01/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	11/10/2005	APPLICATION DISPATCHED FROM OIPE			
10	11/10/2005	APPLICATION IS NOW COMPLETE			
9	10/27/2005	ADDITIONAL APPLICATION FILING FEES			
8	10/27/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	10/27/2005	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
5	08/23/2005	CLEARED BY OIPE CSR			
4	08/23/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	08/18/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	08/12/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	08/12/2005	INITIAL EXAM TEAM NN			

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B. CRAIG KILLOUGH
BARNWELL WHALEY PATTERSON & HELMS, LLC
P.O. DRAWER H
CHARLESTON SC 29402

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APR 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Cotesworth Fishburne, Jr.	:	
Application No. 11/202,740	:	DECISION GRANTING PETITION
Filed: August 12, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2693.001/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The 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 of January 5, 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 3732.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

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In re Application of	:	
Pero Subasic, et al.	:	
Application No. 11/202,742	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 188122005901	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 8, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on March 11, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Wheelock Chan LLP**
2880 Zanker Road
Suite 109
San Jose, CA 95134

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Wheelock Chan LLP
2880 Zanker Road
Suite 109
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Pero Subasic	: DECISION ON REQUEST FOR
Patent Number	: 7657416	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **340** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Anna M. Shih
26201 Northwestern Hwy.
P.O. Box 766
Southfield MI 48037

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OFFICE OF PETITIONS

In re Application of	:	
Ford et al.	:	
Application No. 11/202,744	:	DECISION REFUSING STATUS
Filed: August 12, 2005	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 02-ASD-335(EM) CIP#1	:	
Title: ELECTRO-HYDRAULIC MANIFOLD	:	
ASSEMBLY WITH MOUNTED PRESSURE	:	
SENSORS		

This is in response to the petition filed October 31, 2005, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on August 12, 2005, without an executed oath or declaration. Accordingly, on September 1, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of November 1, 2005.

In reply, applicant filed a petition, and a partially executed declaration. Pursuant to petitioner's request deposit account 05-0275 will be charged the $200.00 petition fee.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing

inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirement (1).

As to item (1),Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). Where an inventor cannot be located/reached as in the case of inventor Ford, rule 47 applicant must demonstrate diligent effort was made to find or reach the non-signing inventor. See MPEP 409.03(d). The statements made in the petition do not illustrate "diligent effort" was made to locate the non-signing inventor. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in a statement of facts. It is important that the statement contain facts as opposed to conclusions. Petitioner should present a signed statement of facts from a person that has first hand knowledge of the diligent efforts made to locate the non-signing inventor. If inventor Ford's address is located a copy of the application papers (specification, including claims, drawings, and oath or declaration) should be mailed to the inventor's mailing address.

Petitioner has established that non-signing inventor Peter Jacobsen refuses to execute the application papers.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Anna M. Shih
26201 Northwestern Hwy.
P.O. Box 766
Southfield MI 48037

In re Application of Greg Edward Ford, Timothy Green, David Herbert, Harold Bowman, Peter Martin Jacobsen and Mark Dell'Eva Application No.11/202,744 Filed: August 12, 2005 Attorney Docket No. 02-ASD-335 (EM) CIP #1 Title of Invention: Electro-Hydraulic Manifold Assembly with Mounted Pressure Sensors	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed November 29, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Ford can not be located. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventor Ford. Petitioner has shown that non-signing inventor Peter Jacobsen has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. Jacobsen orally refused to execute the application papers

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Greg Edward Ford
4307 Sharon St.
Detroit, MI 48210

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JAN 06 2006

OFFICE OF PETITIONS

Greg Edward Ford, Timothy Green, David Herbert, Harold Bowman, Peter Martin Jacobsen and Mark Dell'Eva
Application No.11/202,744
Filed: August 12, 2005
Attorney Docket No. 02-ASD-335 (EM) CIP #1
Title of Invention: Electro-hydraulic Manifold Assembly with Mounted Pressure Sensors

: LETTER

Dear Mr. Ford:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Anna M. Shih
26201 Northwestern Hwy.
P.O. Box 766
Southfield MI 48037

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Peter Martin Jacobsen
2201 W. Buell Road
Oakland Township, MI 48363

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JAN 06 2006
OFFICE OF PETITIONS

Greg Edward Ford, Timothy Green, David Herbert, Harold Bowman, Peter Martin Jacobsen and Mark Dell'Eva
Application No.11/202,744
Filed: August 12, 2005
Attorney Docket No. 02-ASD-335 (EM) CIP #1
Title of Invention: Electro-hydraulic Manifold Assembly with Mounted Pressure Sensors

LETTER

Dear Mr. Jacobsen:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Anna M. Shih
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P.O. Box 766
Southfield MI 48037

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1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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SEP 2 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Goodson R. Talley	:	
Application No. 11/202,784	:	DECISION ON PETITION
Filed: August 12, 2005	:	
Attorney Docket No. 15999.9.1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed April 6, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that the Examiner agree renders the objection to the drawings as moot; (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 the Office of Data Management for processing into a patent.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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	: R. Talley Goodson	: DECISION ON REQUEST FOR
Patent Number	: 7615276	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Tak Ming Pang	: DECISION ON REQUEST FOR
Patent Number	: 7660271	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D, PC
401 W FALLBROOK AVENUE
SUITE 204
FRESNO, CA 93711-5835

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DEC 1 8 2007

OFFICE OF PETITIONS

In re Application of :
Geng-Shin Shen, et al. :
Application No. 11/202,820 : DECISION ON PETITION
Filed: August 12, 2005 : TO WITHDRAW
Attorney Docket No. 5CM200505 (IP-12) : FROM RECORD

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 3, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Andrew D. Fortney, Ph. D. has been revoked by the assignee of the patent application on August 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. wise
Petitions Examiner
Office of Petitions

cc: INTERNATION PATENT OFFICE
OF BANG SHIA
204 CANYON CREEK
VICTORIA, TX 77901-3695

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Jones Day
222 East 41st Street
New York, NY 10017-6702

Mail Date: 05/06/2010

Applicant	: Milan Bruncko	: DECISION ON REQUEST FOR
Patent Number	: 7642260	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/202,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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LEE & HAYES PLLC
421 W RIVERSIDE AVE
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SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of	:	
Oliveira, et al.	:	
Application No. 11/202,828	:	DECISION ON PETITION
Filed: August 12, 2005	:	
Attorney Docket No. MS1-2794US	:	

This is a decision on the petition under 37 CFR 1.182, filed October 31, 2005, which is being treated as a request that the "Notice to File Missing Parts of Nonprovisional Application" mailed September 2, 2005 be withdrawn.

The petition is **DISMISSED**.

The application was filed on August 12, 2005. However, on September 2, 2005, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application". The Notice informed applicant that the application had been accorded a filing date. However the oath or declaration was missing. In addition, pages 1 and 2 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that pages 1 and 2 were not missing on August 12, 2005. Instead, the pages were inadvertently misnumbered.

It is obvious from the petition that no pages of specification were actually missing on August 2, 2005. Rather, the pages were simply mislabeled as a result of applicants' filing error. However, the "Notice to File Missing Parts of Nonprovisional Application" mailed September 2, 2005 was correct in stating that pages 1 and 2 of the specification appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee has been charged to Deposit Account No. 12-0769, as authorized.

Receipt of the declaration filed with the instant petition is acknowledged.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of August 12, 2005, using the application papers filed on that date and the specification filed on October 31, 2005 to correct the error in the numbering of pages 1 and 2.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Dening Wang	: DECISION ON REQUEST FOR
Patent Number	: 7595245	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,835	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **889** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

ARENT FOX LLP
1675 BROADWAY
NEW YORK NY 10019

In re Application of
Tuli, et al.
Application No.: 11/202,864
Filed: NO FILING DATE YET ACCORDED
Attorney Docket No. 027927.00003

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed February 21, 2007.

The petition under 37 CFR 1.137(b) is **granted**.

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on September 1, 2005, allowing a shortened period of reply of two-months from its mailing date[1]. 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 $130.00 surcharge for the late filing of the same, replacement drawings, and a sequence listing. A timely response was not received and the application became abandoned on November 2, 2005. A Notice of Abandonment was mailed on October 3, 2006.

The declaration filed April 7, 2006, is noted.

The replacement drawings and sequence listing filed February 21, 2007, are also noted.

The request made April 7, 2006, for an extension of time within the fifth month is noted, but is not grantable as the request was made outside the maximum period set for reply. The amount of $2,160.00 will be refunded, in due course. The amount of $130.00 will also be refunded because the surcharge was paid twice.

This application is being directed to the Office of Patent Application Processing for further review.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that the "Notice to File Missing Parts of Nonprovisional Application" indicates that a filing date of August 12, 2005, was accorded the application, however; the USPTO internal database indicates that no filing date has yet been accorded this application and such is cited in the header of this decision.

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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

Mail Date: 04/21/2010

Applicant	: Hiroki Tsuchiya	: DECISION ON REQUEST FOR
Patent Number	: 7587802	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,873	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1001** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JOSEPH M. SAUER
JONES DAY, NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Carles P. Baliarda, et al.	:	
Application No. 11/202,881	:	DECISION ON REQUEST
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 68349-00022USPX	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed September 15, 2005.

The request is **APPROVED**.

The request was signed by Joseph M. Sauer on behalf of himself and all the attorneys/agents of record. However, a review of the record indicates that Joseph Sauer and those practitioners referenced in the request: (1) do not have power of attorney in this patent application but (2) have been employed or otherwise engaged in the proceedings in this patent application. Joseph Saver and those practitioners referenced in the request may not prepare or submit papers, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR §1.32(b).

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 Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: STANLEY MOORE, ESQ.
DEPARTMENT HEAD, INTELLECUTAL PROPERTY
JENKINS & GILCHRIST
1445 ROSS AVENUE, SUITE 3700
DALLAS, TX 75202-2799

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JLB CONSULTING, INC.
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:
John J. Mahoney	:
Application No. 11/202,882	: DECISION GRANTING PETITION
Filed: August 12, 2005	:
Attorney Docket No: **J112U005US00**	:

This is a decision on the petition, filed February 12, 2007, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on January 6, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is October 11, 2007 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $750.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 2165 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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/202,882	08/12/2005	John J. Mahoney	J112U005US00

CONFIRMATION NO. 9262

33893
JLB CONSULTING, INC.
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Date Mailed: 07/03/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/11/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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KIRTON & MCCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:
Lah et al.	:
Application No. 11/202,883	: DECISION ON PETITION
Filed: August 12, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9312.95	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 3, 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 petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a

reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Currently, there is no chain between Application Number 11/396,982 and Application No. 10/096,301. However, it is also noted that Application Number 11/396,982 was filed on April 3, 2006, which is *after* the instant application's filing date of August 12, 2005. Therefore, it is impossible for the instant application to claim benefit of Application No. 11/396,982 under 35 U.S.C. § 120, as 35 U.S.C. § 120 is reserved for *prior-filed* applications.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment[1] correcting the above matter, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), is required. No further petition fee is necessary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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SALT LAKE CITY UT 84111

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JUL 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Lah et al.	:	
Application No. 11/202,883	:	DECISION GRANTING PETITION
Filed: August 12, 2005	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 9312.95	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 9, 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 Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on August 12, 2005 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant

petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date 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 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 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 applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3753 for appropriate action on the amendment submitted June 9, 2009, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
11/202,883	08/12/2005	3753	1300	9312.95	26	3

CONFIRMATION NO. 9263

CORRECTED FILING RECEIPT

OC000000036827899

Michael F. Krieger
Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Date Mailed: 07/08/2009

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)

Ruben F. Lah, West Jordan, UT;
Gary Larsen, West Jordan, UT;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/997,834 11/24/2004 PAT 6,989,081
which is a CON of 10/731,874 12/09/2003
and is a CON of 10/096,301 03/11/2002 PAT 6,660,131
and is a CON of 09/946,917 09/05/2001 PAT 6,565,714
which claims benefit of 60/275,527 03/12/2001
This application 11/202,883
is a CIP of 10/096,301 03/11/2002 PAT 6,660,131
which is a CON of 09/946,917 09/05/2001 PAT 6,565,714
which claims benefit of 60/275,527 03/12/2001
and said 10/096,301 03/11/2002
claims benefit of 60/335,534 10/19/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/202,883**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Delayed coker isolation valve systems

Preliminary Class

251

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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THE LAW OFFICES OF
ANDREW D. FORTNEY, PH.D., P.C.
401 W FALLBROOK AVE STE 204
FRESNO, CA 93711-5835

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OFFICE OF PETITIONS

In re Application of
Hung-Che SHEN, et al
Application No. 11/202,898
Filed: August 12, 2005
Attorney Docket No. 5CM200502US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 3, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to The Law Offices of Andrew D. Fortney, PH.D. P.C., has been revoked by the assignee of the patent application on August 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: INTERNATIONAL PATENT OFFICE
OF BANG SHIA
204 CANYON CREEK
VICTORIA, TX 77901-3695

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COOLEY GODWARD LLP
ATTNENTION: PATENT GROUP
ONE FREEDOM SQUARE – RESTON TOWN CENTER
11951 FREEDOM DRIVE, SUITE 1700
RESTON, VA 20190-5061

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OFFICE OF PETITIONS

In re Application of	:	
David W. Newton et al	:	
Application No. 11/202,915	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ENCS-004/02US	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on January 6, 2006 to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a statement explaining how several embodiments of the invention contribute to the treatment and diagnosis of cancer by providing one or more of safer cancer removal, diagnostic methodologies, and devices. Petitioner states "embodiments of the present invention include electrosurgical devices and methods that are beneficial when removing cancerous growths from patients. As a particular example, many embodiments of the claimed invention may be utilized in connection with polypectomy procedures, which often times include the removal of cancerous uterine and/or cancerous cervical polyps." 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 3739 for action on the merits commensurate with this decision.

David Bucci for
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 - 19TH STREET, NW
WASHINGTON DC 20036-2402

COPY MAILED

MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
NEWTON, David W. et al.	:	
Application No. 11/202,915	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. **ENCS-004/02US**	:	FROM RECORD
	:	

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 and re-submitted February 08, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to COOLEY GODWARD KRONISH LLP has been revoked by the Assignee of the patent application on February 07, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NEUGEBOREN LAW FIRM PC**
1035 PEARL STREET
SUITE 400
BOULDER, CO 80302

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MAR 13 2007

OFFICE OF PETITIONS

LAW OFFICE OF TINA M. LESSANI
163 CYPRESS POINT ROAD
HALF MOON BAY, CA 94019

In re Application of	:	
Daniel Geoffrey Karp	:	
Application No. 11/202,918	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 15019-01028	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Tina M. Lessani has been revoked by the assignee of the patent application on February 12, 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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: SCOTT DIETZEN
ZIMBRA, INC.
1500 FASHION ISLAND BLVD.
SUITE 100
SAN MATEO, CA 94404

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,918	08/12/2005	Daniel Geoffrey Karp	15019-01028

CONFIRMATION NO. 7971

OC000000022842631

Law Office of Tina M. Lessani
163 Cypress Point Road
Half Moon Bay, CA 94019

Date Mailed: 03/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,918	08/12/2005	Daniel Geoffrey Karp	025-0140

CONFIRMATION NO. 7971

OC000000022842666

37911
THE LAW OFFICE OF DEEPTI PANCHAWAGH - JAIN
C/O INTELLEVALE
PO BOX 52050
MINNEAPOLIS, MN 55402

Date Mailed: 03/12/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

April McGuire

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/202,918	08/12/2005	Daniel Geoffrey Karp	15019-01028

CONFIRMATION NO. 7971

OC000000022842631

Law Office of Tina M. Lessani
163 Cypress Point Road
Half Moon Bay, CA 94019

Date Mailed: 03/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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The Law Office of Deepti Panchawagh- Jain
c/o Intellvate
P.O.Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Daniel Geoffrey Karp	: DECISION ON REQUEST FOR
Patent Number	: 7596594	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,918	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1034** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 Law Office of Deepti Panchawagh- Jain
c/o Intellvate
P.O.Box 52050
Minneapolis, MN 55402

Mail Date: 05/18/2010

Applicant : Daniel Geoffrey Karp
Patent Number : 7596594
Issue Date : 09/29/2009
Application No : 11/202,918
Filed : 08/12/2005

: 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 **1068** 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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RICHARD A. RYAN
ATTORNEY AT LAW
8497 N. MILLBROOK AVENUE
SUITE 101
FRESNO CA 93720

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JUN 24 2010

OFFICE OF PETITIONS

In re Application of
Thompson et al.
Application No. 11/202920
Filing or 371(c) Date: 08/12/2005
Attorney Docket Number: RAR624.01

ON PETITION

This is a decision on the renewed petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2010.

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 March 7, 2008. 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 June 8, 2008. A Notice of Abandonment was mailed October 14, 2008.

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 the petition includes (1) the reply in the form of an Amendment; (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 3657 for processing of the Amendment in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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September 5, 2006

Patent No. : 7,074,150 B2
Ser. No. : 11/202922
Inventor(s) : Fusegi, et al.
Issued : July 11, 2006
Title : **DIFFERENTIAL GEAR MECHANISM**
Docket No. : **482782006110**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Feb-07

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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OFFICE OF PETITIONS

In re Patent No. 7,074,150	:	
Issued: 11 July, 2006	:	
Application No. 11/202,922	:	ON PETITION
Filed: 11 August, 2005	:	
Atty Dckt No. 482782006110	:	

This is a decision on the petition filed on 19 September, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JENKINS WILSON & TAYLOR PA
3100 TOWER BLVD
SUITE 1200
DURHAM NC 27707

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Delaney, Jonathan James	:	DECISION ACCORDING STATUS
Palmer, John L. Hildebrand	:	UNDER 37 CFR 1.47(a)
Application No. 11/202,928	:	
Filed: August 12, 2005	:	
Attorney Docket No. 1322/195/2	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 26, 2006.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that non-signing inventor Delaney has refused to sign the declaration after having been presented with the application papers.

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.

Petitioner has requested that the petition fee of $130 be charged to his deposit account. However, the fee for a petition under 37 CFR 1.47 is $200. In view of petitioner's statement to charge any additional fees to his deposit account, $200 has been charged to Deposit Account No. 50-0426.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT J DELANEY
10612 BENT TWIG DR
RALEIGH NC 27613

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Robert J. Delaney, Jonathan James :
Palmer, John L. Hildebrand :
Application No. 11/202,928 :
Filed: August 12, 2005 : LETTER
Title: Methods, Systems, and Computer :
Program Products for Reducing :
Signaling Link Congestion

Dear Mr. Delaney:

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

Gregory A. Hunt
Jenkins Wilson Taylor & Hunt
3100 Tower Blvd Ste 1200
Durham NC 27707
919-493-8000

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MIN S. (AMY) XU
DORSEY & WHITNEY LLP
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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AUG 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Schiller	:	
Application No. 11/202,937	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 11811/US/3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 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 Min (Amy) S. Xu on behalf of all attorneys of record who are associated with customer No. 25763.

All attorneys/agents associated with the Customer Number 25763 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 at the address indicated below.

There is an outstanding Office action mailed February 22, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Peter J. Schiller
2700 Black Oaks Lane
Minneapolis, MN 55446

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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
11/202,939	08/11/2005	3653	665	5ICT200503US	8	13	4

CONFIRMATION NO. 7077

CORRECTED FILING RECEIPT

OC000000017733518

36872
THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
7257 N. MAPLE AVENUE
BLDG. D, SUITE 107
FRESNO, CA 93720

Date Mailed: 01/04/2006

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)

Tien-Yuan Chien, Taipei City, TAIWAN;
Jyh-Chyang Hsieh, Pate City, TAIWAN;
Yeuh-Ping Hsu, Sanchung City, TAIWAN;

Assignment For Published Patent Application

International Currency Technologies Corporation

Power of Attorney: The patent practitioners associated with Customer Number **36872**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/436,130 05/13/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/202,939

Projected Publication Date: 01/19/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Power control circuit for use in a vending machine

Preliminary Class

194

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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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Shigeru Sugano	: DECISION ON REQUEST FOR
Patent Number	: 7584017	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,947	: OF WYETH
Filed	: 08/12/2005	:
		:

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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Townsend and Townsend and Crew LLP/Metabox, Inc
(016325)
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

Mail Date: 05/06/2010

Applicant	: Yan Zhu	: DECISION ON REQUEST FOR
Patent Number	: 7622491	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/202,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **751** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Sriram Raghunathan	: DECISION ON REQUEST FOR
Patent Number	: 7606241	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/202,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **970** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LAW OFFICE OF TINA M. LESSANI
163 CYPRESS POINT ROAD
HALF MOON BAY, CA 94019

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APR 06 2007

OFFICE OF PETITIONS

In re Application of	:	
SCHEMERS, et al.	:	
Application No. 11/202,987	:	DECISION ON PETITION
Filed: August 12, 2005	:	TO WITHDRAW
Attorney Docket No. 15019-01033	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Tina Lessani of the LAW OFFICE OF TINA M. LESSANI has been revoked by the assignee of the patent application on February 12, 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: **THE LAW OFFICE OF DEEPTI PANCHAWAGH - JAIN**
C/O INTELLEVALE
PO BOX 52050
MINNEAPOLIS, MN 55402

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MARIETTA, GA 30007-1355

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OFFICE OF PETITIONS

In re Application of	:	
Zhang et al.	:	
Application No. 11/202,988	:	ON PETITION
Filed: August 12, 2005	:	
Atty Docket No.:	:	
20009.0052USC1 (BS00-285C	:	

This is a decision on the Petition Under 37 CFR 1.182 in Response to Notice of Omitted Items in a Nonprovisional Application, filed November 25, 2005, requesting the application be accorded a filing date of August 12, 2005, including Figure 1.

The petition is **dismissed**.

The application was filed on August 12, 2005. However, on October 11, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), noting that a filing date had been accorded the application; however, Figure 1 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant provides that the above-identified application is a continuation of application number 09/983,487 and the parent application contained the omitted Figure. As such, Applicant asserts that the subject matter of Figure 1 is not new matter and requests the application be accorded a filing date of August 12, 2005, including Figure 1.

Applicant alternatively requests acceptance of Figure 1 and according the application the filing date that Figure 1 is accepted. Applicant files a copy of Figure 1.

Regarding Applicant's priority claim[1], a review of the contents of nonprovisional application no. 09/983,437 reveals that the application includes a copy of the Figure 1 that Applicant has filed with the instant petition.

Applicant is advised that a petition is not necessary in this instance to add the drawings. The drawings may be entered by the primary examiner without a petition, so long as the drawings are not new matter. See, MPEP § 608.01(p). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> 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), <u>without the need for a petition</u> provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

In view of the above, the alternative request for acceptance of Figure 1 and according the application the filing date that Figure 1 is accepted, is moot.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application <u>with a filing date of August 12, 2005</u>, using the application papers filed on that date.

---

[1] 37 CFR 1.57(a) provides that if all or portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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AVAGO TECHNOLOGIES LTD
4380 ZIEGLER ROAD
FORT COLLINS, CO 80525

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OFFICE OF PETITIONS

In re Application of	:	
Richard C. **RUBY, et al.**	:	
Application No. 11/203,003	:	DECISION GRANTING PETITION
Filed: August 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.**10031094-04**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Scott 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 on whose behalf he acts in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of	:	
Bergeron et al.	:	PATENT TERM ADJUSTMENT
Application No. 11/203,006	:	
Filed: August 11, 2005	:	
Atty Docket No. 11134-079-999	:	

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed November 13, 2008.

Applicant requests that the determination of patent term adjustment be increased by 197 days from 471 days to 668 days based on a projected patent issue date of February 24, 2009. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking

reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The required patent term adjustment application fee has been charged to applicant's deposit account, as authorized. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,544,702 :
Issued: June 9, 2009 : DECISION ON REQUEST
Application No. 11/203,006 : FOR RECONSIDERATION OF
Filed: August 11, 2005 : PATENT TERM ADJUSTMENT
Atty. Dckt. No. 11134-079-999 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)," filed on August 5, 2009. Patentees request that the determination of patent term adjustment be corrected from 559 days to 773 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 559 days.

BACKGROUND

On June 9, 2009, the application matured into U.S. Patent No. 7,544,702, with a revised patent term adjustment of 559 days. The Office determined that the 302 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 471 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and the 88 days of Office delay pursuant to 37 CFR 1.702(a)(4). As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision.

On August 5, 2009, patentees timely submitted this request for reconsideration of the patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 773 days under the courts interpretation of the

overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day."

Patentees asserts the 88 day period under 37 CFR 37 CFR 1.702(a)(4) overlaps with the three year delay period under 37 CFR 1.702(b) and under § 154(b)(1)(A) & (B). Accordingly, patentee maintains that the total non-overlapping PTO delay under § 154(b)(1)(A) & (B) is 773 (559 + 302 - 88 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 0 days, patentees assert entitlement to 773 days of patent term adjustment.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period

> beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), August 11, 2005,

and ending on the date the application issued as a patent, June 9, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). There are no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4), 559 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 302 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 302 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 559 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(4). Entry of both the 559 days and the 302 days is neither permitted nor warranted. 559 days is the actual number of days issuance of the patent was delayed. Considering the applicant delay of 0 days, the patent term adjustment at issuance is 559 days.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

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 559 days.

The correspondence address is different than the address in the petition. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) with the application under 37 CFR 1.705(b) filed on November 13, 2008. As the application was held in abeyance by the decision mailed on May 11, 2009, no additional fees are required with the subject application under 37 CFR 1.705(d).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Cc: JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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In re Application of	:	
Detro, et al.	:	
Application No. 11/203,014	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 356508.05200	:	FROM RECORD
	:	

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 14, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Doyle Johnson on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed June 12, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SCOTT DETRO
872 MANOR WAY
LOS ALTOS, CA 94024

cc: ARTHUR BERMAN
10440 BUBB ROAD
SUITE B
CUPERTINO. VA 95014

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	ATTY. DOCKET NO./TITLE
11/203,014	08/11/2005	Scott Detro	356508.05100

CONFIRMATION NO. 1042

OC000000020725308

OC000000020725308

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
P.O. Box 1450
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MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El CAMINO REAL
SUITE 700
PALO ALTO, CA 94306

COPY MAILED
NOV 15 2006
OFFICE OF PETITIONS

In re Application of	:	
David H Gelfand, et al.	:	
Application No. 11/203,040	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 60349-5001-US04	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 4, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morgan, Lewis & Bockius, LLP has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: CHARLES M. DOYLE, PH.D.
ROCHE MOLECULAR SYSTEMS, INC.
1145 ATLANTIC AVENUE
ALAMEDA, CA 94501

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,040	08/11/2005	David H. Gelfand	60349-5001-US04

CONFIRMATION NO. 9308

OC000000021193814

OC000000021193814

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO, CA 94306

Date Mailed: 11/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
SUITE 700
PALO ALTO CA 94306

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
David H. Gelfand, et al	:	
Application No. 11/203,048	:	DECISION ON PETITION
Filed: August 11, 2005	:	TO WITHDRAW
Attorney Docket No. 060349-5001-US05	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 4, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morgan, Lewis & Bockius LLP (SF) has been revoked by the assignee of the patent application on August 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: Charles M. Doyle, Ph. D
Roche Molecular Systems, Inc.
1145 Atlantic Ave.
Alameda, CA 94501

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/203,048	08/11/2005	David H. Gelfand	060349-5001-US05

CONFIRMATION NO. 9196

OC000000022884485

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO, CA 94306

Date Mailed: 03/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- 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).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Kathiravan Sengodan	: DECISION ON REQUEST FOR
Patent Number	: 7661108	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/203,075	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1117** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

In re Patent No. 7,330,098	:	CORRECTED LETTER
YOSHIKAWA, TOKIHIRO	:	REGARDING PATENT
Issue Date: February 12, 2008	:	TERM ADJUSTMENT AND
Application No. 11/203,079	:	NOTICE OF INTENT TO ISSUE
Filed: August 12, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 4906	:	

This is a corrected[1] letter in response to the "GOOD FAITH REQUEST FOR REVIEW OF PTA DETERMINATION," filed June 2, 2008. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **182 days**.

Patentee is given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

On February 12, 2008, the above-identified application matured into U.S. Patent No. 7,330,098, with a revised patent term adjustment of 211 days. On June 2, 2008, patentee submitted the instant comment. Patentee directs the Office's attention to the

[1] The letter regarding patent term adjustment and notice of intent to issue certificate of correction mailed on September 26, 2008, is hereby vacated, and replaced with the instant corrected letter.

filing of an Information Disclosure Statement ("IDS") on December 17, 2007.[2]

A review of the application history reveals that the determination of patent term adjustment under 35 U.S.C. 154(b) of 211 days is incorrect.

On December 17, 2007, patentee submitted an IDS after the mailing of the notice of allowance, which under the circumstances of this application, is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that patentee filed the IDS after the mailing of the notice of allowance. The Office responded to the IDS on January 14, 2008. Thus, the period of adjustment should have been reduced by the lesser period of 29 days, beginning on the date the IDS was filed, December 17, 2007, and ending on the mailing date of the Office action or notice in response to the IDS, January 14, 2008. Accordingly, a period of reduction of 29 days will be entered.

In view thereof, the patent should have issued with a revised patent term adjustment of **182 days** (211 days of Office delay - 29 days of applicant delay).

---

[2] In the instant comment, patentee states that the IDS was filed on December 11, 2007. However, a review of the record reveals that the IDS was filed on December 17, 2007.

As this letter was submitted as an advisement to the Office of an error in patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for patentee's good faith and candor in bringing this to the attention of the Office.

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 **182 days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3211.

Nancy Johnson

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,330,098 B2

DATED : Feb. 12, 2008

INVENTOR(S) : Yoshikawa

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 (211) days

Delete the phrase "by 211 days" and insert – by 182 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/203,094	08/15/2005	Masanori Sekino	125074	1404

7590 08/20/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
TRAN, THAI Q

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
08/20/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Hulme

Patent Publication Branch
Office of Data Management

Refund Ref:
08/21/2009 NFARMER 0000168401

CHECK Refund Total: $1900.00

Adjustment date: 08/21/2009 NFARMER
08/17/2005 WASFAW1 00000057 11203094
02 FC:1111 -500.00 OP
04 FC:1201 -1400.00 OP

FORM PET651G (Rev. 08/07)

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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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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In re Application of	:	
SAMPSON, Douglas C. et al.	:	
Application No. 11/203,108	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. **12673/4**	:	FROM RECORD

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 20, 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 KENYON & KENYON LLP has been revoked by the assignee of the patent application on November 07, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **INSKEEP INTELLECTUAL PROPERTY GROUP, INC**
2281 W. 190TH STREET
SUITE 200
TORRANCE CA 90504

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

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JUN 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
PANETTA, Richard et al.	:	
Application No. 11/203,121	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. **HNKL0006-U**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 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 George Marcou on behalf of all attorneys of record who are associated with customer No. 27510. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RICHARD PANETTA**
236 COXE BLVD.
MILTON, ONTARIO CANADA L9T 4J8

cc: **HUNTON & WILLIAMS LLP**
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
Kazuhito Niwano, et al.
Application No. 11/203,135
Filed: August 15, 2005
For: **COMMUNICATION SYSTEM, COMMUNICATION APPARATUS, COMMUNICATION TERMINAL AND COMMUNICATIONS METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed December 23, 2005, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JJGJr : 12-07

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OFFICE OF PETITIONS

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
Colon	:	
Application No. 11/203,143	:	DECISION
Filed: 15 August, 2005	:	
Attorney Docket No. 032798-008	:	

This is a decision on the petition filed on 15 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 22 March, 2007, with reply due absent extension of time on or before 22 June, 2007;
- the application went abandoned after midnight 22 June, 2007;
- the Office mailed the Notice of Abandonment on 9 October, 2007;
- on 15 October, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that a reply in the form of an amendment was filed with a request and fee for extension of time (which was charged) on Monday 24 September, 2007, and Petitioner made such showings with copies of documents (including the reply and the date-stamped ("SEP 24 2007") receipt card (see: MPEP '503[1]) and of the reply and made such statements of

[1] MPEP '503 provides in pertinent part:
'503 Application Number and Filing Receipt

Petitioner's own knowledge as set forth in the guidance in the Commentary at MEEP §711.03(c).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

---

* * *

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 Aa complete application@ or Apatent application@ will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

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§ 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]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to 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.[8]

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

> **B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed**
>
> 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

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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.

8 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted** and the 9 October, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[9] 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.